

# The Legal Writing Manual

## Self-regulated Learning for First-year Law Students

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### Abstract

In an effort to teach law students to “think like a lawyer” and develop their professional identities, attention has turned to helping students self-regulate their learning. To encourage self-regulated learning among her first-year law students, one of us (Tanner) adapted a self-regulated learning prompt developed by the other (Roderick) to assign The Legal Writing Manual—a capstone project in her first-year legal writing course, which tasks students with instructing others in processes and practices for composing legal memoranda and appellate briefs. Each student’s manual is built upon previous analytical and self-reflective work carried out in a first-year legal writing course. The experience of articulating instructions for legal writing encourages students to self-regulate their learning by re-thinking knowledge and practices for legal writing.

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### Introduction

First-year legal writing courses equip law students with strategies for adapting to the demands of law school (Bloom, 2013) and legal practice. A common approach introduces students to forms, styles, and conventions associated with some common legal genres. For instance, texts like *Legal Writing in Plain English* (Garner, 2023), *Thinking Like a Lawyer* (Vandervelde, 2011), *Legal Writing and Analysis* (Edwards & Moppett, 2023), and *Clear and Effective Legal Writing* (Charrow et al., 2013) offer models of legal genres and reasoning principles designed to demystify legal discourse. To extend these practical approaches, the assignment presented here—The Legal Writing Manual—asks students to attend not only to features but also to practices used for composing common legal genres. Incorporating writing manuals into the curriculum bridges the gap between theoretical knowledge and practical application, fostering an environment where students can engage in self-regulated learning.

This approach aligns with the findings of Christopher (2020) and Schwartz (2003), who emphasize the importance of adapting academic knowledge in real-world contexts. Consequently, this pedagogical strategy empowers students to become self-regulated learners, as described by Nilson (2013) and Zimmerman and Kitsantas (2007), by encouraging them to continuously reflect on and adjust their understanding and methodologies in response to varying tasks and to tie their coping mechanisms to different phases of writing. For instance, students may self-regulate when they find themselves stuck or uncertain about a problem, and then decide to seek help or change tactics, only to revise their understanding of the problem and develop a new way forward (Roderick, 2019). When faced with challenging problems and uncertainties, self-regulated learning strategies can help students problem-solve by using challenging moments as opportunities for reflection and growth (Roderick, 2019).

Building on this foundation of self-regulated learning, the legal writing manual serves as a pivotal tool in a first-year legal writing course, guiding students to actively manage their learning process. This article will detail the specific legal writing manual assignment first implemented by Tanner in her Legal Writing course during the Fall 2022 and Spring 2023

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semesters. The ensuing sections will explore the structure of this assignment, highlighting the integral roles of metacognition and self-regulation in fostering reflective practices and resilience. Additionally, the article will guide readers through the intricacies of assigning and composing a legal writing manual, illustrating how this tool can be effectively utilized to enhance students' problem-solving skills and adaptability in the face of writing challenges.

## Encouraging Self-Regulated Learning in Law School

The Legal Writing Manual prompts self-regulation through a “bottom-up” approach where each student recognizes and develops the strategies they value for legal writing. In order to help this bottom-up thinking bear fruit, we also wanted to provide students a conceptual framework for self-regulated learning. Taking up Zimmerman and Schunk (2011) we frame self-regulated learning as three intertwined phases of self-regulation, which include forethought (developing a sense of goals and motives), performance monitoring practices, and self-reflection (evaluating accomplishments and orienting reactions).

**Forethought** focuses on the goals, motives, and future-oriented thinking that guide a learner's practices. For example, a student writing an appellate brief may set out to analyze how the court interpreted or misapplied a statute in search of errors made by the trial court. Whether conscious or subconscious, a student may regulate their writing practices in accordance with the outcomes they see themselves pursuing, thus adaptable learners may constantly revise their forethought throughout their writing process. One way we encourage students to recognize and reflect on goals and motives associated with writing is by teaching, either a fictionalized “other” or their future selves, through the Instruction Manual assignment.

**Performance:** Self-regulation also occurs as one governs their work in the present. For instance, some writers may set an alarm to create focused writing time. Or, they may choose to compose in certain environments that encourage productivity. In essence, these strategies determine how the work gets done. For instance, the “process logs” that are a part of the Instruction Manual assignment ask students to track the time they spend writing during a session and then assess how successful that session was.

**Self-reflection:** Self-regulated learners reflect on their own learning and progress, which can be an effective self-regulation strategy. For instance, Tanner encourages her law students to regularly assess their own progress, recognize emerging challenges, and react negatively to reassess forethought and performance strategies. The process of writing the Instruction Manual is itself an exercise in self-reflection as each student draws on their experiences composing legal genres in order to rethink how they would explain the goals, motives and practices associated with a particular type of legal writing.

Arguments for teaching self-regulation in law school are not new. Schwartz (2003) argued for the advantages of teaching law students to develop self-regulated learning strategies through curriculum revision, and others have advocated for modeling learning strategies to help with time management and studying (e.g. Bloom, 2013; Schulze, 2019). Their approach can help students develop self-regulated learning practices, such as note taking and study habits, and they can help students situate their own aspirations as legal professionals.

As writing teachers, we see an opportunity to extend the benefits of self-regulated learning in the context of legal writing. An ability to understand and participate in legal discourse is an essential gateway to law students' professional development, and learning this discourse involves rhetorical problem solving where students draw on rhetorical knowledge—genre, audiences, context, purposes—to set goals for writing, compose written text, and self-evaluate progress. Since this rhetorically focused self-regulation extends beyond the learning strategies Bloom (2013) and Schulze (2019) offer, we believe it deserves a more specialized instruction. The

Legal Writing Manual offers a way to guide students to articulate their self-regulation strategies for composing legal genres.

## Course Context & the Legal Writing Manual

The Legal Writing Manual assignment is an innovative pedagogical tool, designed to engage first-year law students in an in-depth exploration of the genre characteristics and writing processes specific to legal memos and briefs. This assignment requires students to compile a comprehensive guide, one that not only instructs but also demystifies the complexities inherent in legal writing for themselves and their peers. To construct this manual, students are not merely passive recipients of information; instead, they actively draw upon a rich array of artifacts and experiences they have accumulated over the course of their studies. These artifacts include, but are not limited to, drafts, outlines, and research materials, all of which are integral to writing in legal genres. In this sense, it serves as an informal portfolio project, and hence, Tanner often refers to it as the “capstone” assignment for the fall and spring semesters.

A key component of these artifacts is a “process log,” a reflective tool that plays a crucial role in fostering self-regulation among students. This log serves as a record of their journey through the various stages of legal writing, prompting them to actively engage in self-assessment and adjustment of their learning strategies. By maintaining this log, students are encouraged to critically analyze their writing process, identify areas for improvement, and develop strategies to overcome challenges. The act of synthesizing these diverse artifacts into a cohesive “manual” further enhances students’ metacognitive understanding. It allows them to reflect on the challenges they faced, the goals they set, and the practices that either facilitated or impeded their progress in legal writing. This synthesis not only aids in their personal development as legal writers but also contributes to a resource that can guide and inform the practice of their peers, thereby fostering a collaborative learning environment.

The Legal Writing Manual was originally conceived of as a capstone project for Tanner’s course “Legal Writing and Research,” which is the first-year legal writing course at Louisiana State University’s Hebert Law Center.<sup>1</sup> Legal Writing and Research takes place over two academic semesters during which a cohort of first-year law students worked toward the following course outcomes:

1. Demonstrate basics of persuasive writing and legal analysis using code articles, statutes, and cases.
2. Demonstrate effective persuasive legal writing skills by drafting an appellate brief.
3. Demonstrate effective & efficient legal research skills by using secondary and primary sources of law to find relevant legal authorities that will govern a particular issue in Louisiana.
4. Demonstrate effective oral argument skills by preparing and performing an appellate oral argument before a judge.

The Legal Writing Manual reflects the culmination of three phases of work. In phase 1, students develop analytical knowledge about legal writing genres. In phase 2, students apply record self-regulated learning practices in a “process log.” In phase 3, students synthesize their self-regulated learning and analytical knowledge by creating their own Legal Writing Manual.

### Phase 1: Analyze legal genres

To help students build awareness of legal writing genres, the students first examine examples of legal writing to discern the genre characteristics and conventions at play. To examine legal

genres, students engage in comparative genre analysis, in which a student compares examples of genres in order to identify salient features and interpret their significance within a rhetorical situation (Wolfe et al., 2014). Students' Comparative Genre Analysis (CGA) starts by introducing students to variations of legal memos, and tasks them with creating a chart that illustrates their rhetorical characteristics (Tanner, 2022, p. 3). To expand their analysis, students then repeat the process with variations of other legal genres, charting their rhetorical features and drawing comparisons between their purposes, formal features, and uses within the legal system.

The CGA is a form of genre analysis that, as Devitt et al. (2003) state, associates the use of a text "to the smaller bits of language that alert analysts to underlying ideas, values, and beliefs" (p. 543). Through CGA, students explore the purposes, audiences, and stylistic elements that shape the way information may be presented and arguments structured in legal contexts. To enhance their analysis, students are encouraged to consider the context in which each genre is used and identify features of the rhetorical situation. They examine the purpose of the document, the intended audience, and the broader legal framework within which it operates. By understanding the specific role and function of each genre, students can better grasp the underlying rhetorical strategies employed by legal writers to achieve their objectives. Additionally, students are prompted to critically evaluate the effectiveness of the examples they analyze. They learn to identify strengths and weaknesses of multiple examples of legal writing in different genres, assessing how well they fulfill their intended purpose and communicate legal arguments persuasively. This evaluative process encourages students to develop a discerning eye for effective legal writing and empowers them to apply these insights to their own work.

These explorations show up in students' legal writing manuals when they describe the "functions" and "anatomy" of a legal memo. For instance, one student's manual documented functions when they wrote:

#### **Function of Legal Memos:**

The role of legal memos in law firms, court settings, or in-house legal departments: Memos are reviewed by lawyers because not every lawyer can work on every aspect of every case. So, they use their associates to go to some events (depos, statements, etc.) or do research on a specific part of a case, and to log their findings in a memo so that the attorney knows exactly what happened without any unnecessary details.

Following this statement of function, this student goes on to outline a series of moves they associate with legal memos, which include:

#### **Anatomy of a Legal Memo**

1. Issue/Question Presented
2. Brief Answer/Short Answer
3. Facts
4. Discussion/Analysis
5. Conclusion

In addition to listing the moves, the student includes a one-sentence description that summarizes the move. For instance, they describe "Brief Answer/Short Answer" as "A concise, but detailed answer to the issue/question presented. (If you are not 100% certain about the outcomes of the case, then do not use words that assume you are, such as 'will be held liable' or straight 'yes' and 'no' answers...)" This memo illustrates how a student's analysis involves scrutiny of the language, tone, organization, and formatting within these examples. Students are encouraged to identify recurring patterns, such as the use of specific legal terminology, the presence of formal tone or persuasive language, and the consistent inclusion of certain sections

**Table 1.** The process log protocol used to prompt students' self-regulation throughout the appellate brief project.

### Process Log

**Before you begin, please answer the following question:**

1. What are your goals for this session?

**After you've finished working, respond to the questions below:**

2. What did you accomplish during this session?
3. What problems did you encounter?
4. What did you do that helped or hindered you?
5. What are your next steps?

or headings. Through this analysis, students begin to recognize the building blocks that define each genre and start to comprehend the underlying principles that guide effective legal writing.

By engaging in this analysis, students can develop a deeper understanding of the unique features and expectations associated with different legal genres.<sup>2</sup> Students not only become familiar with the various forms of legal writing but also gain the ability to adapt their writing to suit different genres and contexts. This foundational understanding equips them with the necessary skills to effectively communicate in a legal setting and navigate the complexities of legal discourse.

### Phase 2: Compose an appellate brief and “process log”

In phase 2 of this assignment, students apply their analytical knowledge of legal writing to compose an appellate brief in an authentic scenario, while simultaneously maintaining a “process log” to document their decision-making and reflect on their writing choices. Before this assignment, one of us (Roderick) developed a process log protocol as a tool to help students self-regulate their writing on tasks ranging from first-year undergraduate essays to graduate-level research proposals. Students composed their process logs by responding periodically to a series of five prompts designed to guide them through a form of self-regulated learning, either through writing or audio recording their answers. The sequence of questions prompts students to self-regulate their writing process by asking them to set goals (forethought), self-evaluate accomplishments (self-reflection), and identify strategies (performance) that can help them carry through with their work (Table 1).

Examples from students' process log show how the five prompts gave students space to self-regulate their memo writing process. For instance, one student's log shows 13 separate entries composed over approximately two weeks. Each entry reproduced the log questions and provided a 1-2 line response, such as in the following excerpt where the student establishes a goal, self-reflects on a problem, and re-establishes a next step to carry their work forward:

**Date/Time:** [Anonymous]

1. **What are my goals for this session?**

To finish writing the facts section, reorganize the general layout, expand on element explanations of Closed Memo Assignment.

2. **On a scale of 1-5, how successfully accomplish my goals for this session?**  
**Explain.**

2, I only reorganized the general layout and somewhat expanded the explanations.

**3. What problems did I encounter?**

- Personal problems [worrying about plant problem and family stuff]
- Feeling overwhelmed while trying to do too much at once.

**4. What helped or hindered me in addressing the problems faced?**

Reviewing structure of an analysis, writing the roadmap paragraph to organize what I will talk about in order.

**5. What will I do next?**

Sit down just to write the facts section using the checklist. Then use Black's to give some definitions to the words in the elements. Trying to only set 1-2 goals per writing session.

This excerpt shows the process log questions provided a structure within which this student could name and work through specific challenges for developing their memo's content and organization. The student's goals are typical of other students insofar as they aim to develop content and structure within the context of the assignment. The prompts also encourage self-reflection by giving space to rate accomplishments, to recognize troublesome areas of writing as well as affective challenges ("feeling overwhelmed"), and to reframe goals and practices to navigate challenges. Interestingly, this student also adjusts how they self-regulate when they set a next step to "only set 1-2 goals per writing session."

Students also adapted their responses to deviate from the form represented above. Some responded with general "Before" and "After" paragraphs to summarize their aspirations and then self-reflect on what happened, such as in the following excerpt.

**Before:**

My goal for this writing session is to understand more about creating a template and outlining a memo. I understand the basis from the memos that we have written in previous assignments, such as the dog owner's liability for the cat.

**After:**

The outlining template online was very helpful in figuring out where to put specific explanations and topics that I want to address in the memo. I think it's helpful to create an overall template and then make it a bit buffer and keep building off of the specific template.

This student also honed in on how she went about process logging by ditching the "before" and "after" structure in favor of a more streamlined reflection. She notes this shift in the following entry.

1. I have given up on before and after because I do not find it helpful. However, I do find writing from examples to be very helpful
2. The other memos are insanely helpful for learning how to organize them and figure out where I can put the analysis so that it makes sense to the person which helps a lot.

Other students' log entries deviated even further from the prompts by moving away from the goal, accomplishment, problem, next step sequence to instead focus on text-type, successes, and challenges. The following entry illustrates this altered approach to process logging.

**Date:** [Anonymous] **Type of Memo/Activity:** Final Memo Research Exercise—Annotated Bibliography

**What Worked:** Looking at the statute and commenting on what I see and my questions.

**Challenges Faced:** There are many statutes, and I am not sure if they all apply. Nevertheless, a start is better than no start.

These excerpts illustrate variations in the ways students chose to respond to the process log prompts, and each variation takes a unique approach to self-regulation. We want to encourage these variations and align ourselves with the assumption that self-regulation can and should take many forms. Further, Tanner chose not to grade the process logs for content, which gives students more flexibility and autonomy over how they choose to complete them. It also means that some students put more effort into their submissions than other students. One way Tanner has encouraged students to buy into the process is by having discussions in class about the process and documentation of the process through the logs. In addition, she often asked students to reference their process log during individual conferences as a way to probe into any of the challenges they may have encountered with their writing. The students who have been completing them regularly share how helpful they have found them with the class, which encourages students to complete them.

### Phase 3: Students reflect on their process log and compose an “Instruction Manual”

The experiences from phases 1 and 2 culminate in students synthesizing their understanding of the genre and composing processes into a comprehensive legal writing instruction manual. For their final project, Tanner asks her students to “review your process log and arrange it in a way that will be helpful to your future self as a writing manual for the memo” (Legal Writing Manual Prompt). To complete this project, students write an instructional manual for their future selves on the genres of writing that they are learning in the classroom. The assignment asks students to reflect on the process prompted in their process logs in order to create a set of instructions to their future selves on how best to write (1) a memo in the fall and (2) an appellate brief in the spring.

The instruction manual has two goals: a process goal and a product goal. The product they are creating, an instruction manual, is there to help students remember what they learned the first time they are asked to write within each genre we have discussed when they later must reproduce that knowledge for their internships and jobs. For this reason, students are asked to describe several sub-genres of memos: full memos, and various complexities of e-memos. By identifying commonalities and differences among common sub-genres, students will be better poised to recognize key features when they are asked to write within a new sub-genre.

Additionally, for the second iteration of this assignment sequence, students were able to bring printouts of their manual to a final exam, where they were asked to write a memo on an area of law that was new for the students. In response to the shifted focus on metacognition allowed by the reflection documents and manual assignment, Tanner made a change to the course: she included a timed final exam. The final exam was meant to respond to two important exigencies: first, students were focusing more on learning techniques to transfer their knowledge to unfamiliar contexts, but they were not given opportunities to do so within the confines of the class. Two, advances in generative AI meant that out-of-class assignments faced the risk of

being generated by ChatGPT rather than the students. So, Tanner added an hour-and-a-half in-class exam modeled on the Multistate Performance Test to the course content. For the exam, students are able to refer to the notes they have made for themselves in their manuals about what goes into a memo. In this sense, the manual serves as a legal writing “outline” much like they would prepare for their casebook classes.

The second goal—the process goal—of the manual is to foster metacognition. Asking students to explain to their future selves how to write key legal genres forces their attention to what they are doing and how they are doing it. Having consciously articulated knowledge about process and product (metacognition) will, ideally, help them transfer that knowledge to the legal genres they will be responsible for writing in practice.

Students are also asked to reflect on the process and narrate that process to their future selves and to articulate their own self-regulation strategies. What decisions did they make in the research phase? How did they start the writing process: with an outline, notes, or free write? What did they do when they got stuck? Articulating their processes helps them create goals and plans now and have a record for the future to remind them that they will be able to work through the rough spots. Preliminary findings indicate that students successfully adapt their knowledge and practices to align with the expectations of legal writing, thus facilitating their transition from undergraduate to law school writing. The development of the legal writing guide and the accompanying process logs demonstrate students’ increased metacognitive awareness of their writing practices and their ability to verbalize and regulate those processes effectively.

In some cases, students chose to draw from their process log work to develop self-regulatory strategies for writing a memo. Such strategies are represented in the student reflection excerpted below, which describes a sequence of goals followed by a strategy to cope with problems.

### **Memo Writing Process**

Start with the discussion section. [...] Starting with the discussion section also allows you to think through the rules, explanations, and analyses to reach a conclusion, which allows you to write the brief answer and conclusion sections. After writing the discussion and facts sections, write the issue section, and make sure to frame the issue around the conclusion that you reached in your discussion section. Next, write the brief answer section, then the conclusion and recommendations section.

If you’re feeling stuck, ChatGPT can generate an example memo for your issue that can give you ideas of how to format your memo or what issues to address. However, the memo you submit should still be written on your own. If ChatGPT cites cases that you have not read, that could be a good starting point for researching case law. However, if the memo is closed, obtain prior permission before using a case in your memo that is not on the list provided to you. Also, always check any statutes or cases that ChatGPT cites because they may not actually be relevant to your case, or they might not be real cases at all. ChatGPT is a tool to help you; it is not meant to do your work for you.

In this excerpt, the student describes a self-regulation strategy for writing memos, which include a sequence of goals (“Start with the discussion section...”) and a tactic to address problems (“If you’re feeling stuck...”). While students could have reflected on these strategies without the process log prompts, we believe that keeping a process log better equipped students to define these practices, because the questions primed them to pay attention to what they were *doing* in addition to what they were producing.



### Reflections and Discussion—What evidence is there that students are self-regulating?

The legal writing manual and process log reflections offer a way to carry out common advice that legal writing faculty should “recognize and understand” students’ struggles in their first year of law school (Donahoe & Ross, 2013). By prompting students to self-regulate, and then compile a manual, students articulate self-regulated learning practices in a variety of ways, including adapting ways of approaching legal writing, self-reflecting on emotional work involved in legal writing, and strategizing processes for overcoming challenges. While we acknowledge these adaptive practices may occur for some students regardless of whether they are prompted to self-regulate their learning, we also believe that prompting increases an opportunity to self-regulate while also making visible important information about the approaches, emotional work, and strategies students bring to the assignment. We elaborate on these three areas of SRL below.

The process logs and writing manual made visible the unique and varied ways that students approached legal writing. While there was a considerable variation in their methods, several discernible trends emerged that shed light on the self-directed learning process within the class. One notable pattern was that some students heavily relied on the handouts provided by the professor. In their reflections, students copied and pasted notes from handouts, or paraphrased language from handouts (“learning to use genres,” and “using what you’ve learned to write.”), to guide their self-assessment. These resources were specifically designed to assist them in navigating the intricacies of writing a memo and a brief. However, these students went beyond the given instructions and used them to articulate how they adapted the advice given in the handout to meet their own purposes. For instance, students often mentioned drawing on models to refine their goals for content and organization, such as in the following log excerpt.

The outlining template online was very helpful in figuring out where to put specific explanations and topics that I want to address in the memo. I think it’s helpful to create an overall template and then make it a bit buffer and keep building off of the specific template.

This student explicitly acknowledges using handouts to self-regulate in their reference to “the outlining template,” a resource that draws on sample memos to explicitly model a structure for students. Other references to this resource include students that mentioned using “the [provided sample] memo to structure sentences, paragraphs, and citations.” These references suggest students supplemented the handouts with personal notes taken during class discussions or incorporated reflections on how to effectively implement the directions provided.

The manual and logs also helped bring to light the range of *emotions* students experienced throughout the course. Frustration was a common theme, as some students encountered obstacles and difficulties along the way.

I have absolutely no clue what a rule synthesis is. I am insanely confused about the homework and have no clue how to go forward with the assignment. I have done my hardest and I am moving forward with the hope that class will explain what the heck is going on.

This excerpt shows students sometimes use the process log as a place to vent frustrations, and in doing so makes visible an opportunity for the instructor to intervene with support. In fact, the next entry points to a somewhat successful intervention when the student notes, “I am slightly more understanding of what a rule synthesis actually is. It makes a good bit more sense than it did before. It basically uses other cases to explain the statute in a way that is easier to understand than the actual statute itself.”

While frustrations sometimes stood alone, more often they coincided with positive exclamations as students recognized solutions to the writing challenges they struggled with, such as in the following log excerpt.

1. Its peer review time!!!!.
2. I think that the peer review process is super fun. I find it very rewarding to see what other people have said about their own paper and compare it to my own.
3. The closed memo was a really difficult assignment to conceptualize but I think that reading some from other people made it much, much easier.

The entry articulates a positive emotional response to the prospect of peer review, indicated by abundant exclamation marks, an explicit reference to “super fun” and an acknowledgement that reading other’s work helps a “difficult assignment” become “much easier.” Entries like this one suggest the challenges and frustrations inherent in learning a new genre served as opportunities for growth and learning, as they prompted students to critically evaluate their strategies, seek assistance, and find alternative solutions. By narrating their frustration, students showcased their resilience and determination to overcome obstacles, an essential aspect of the self-directed learning process. Some students focused more on their successes than their failures, highlighting moments of accomplishment and breakthroughs in their writing journey. These accounts showcased their ability to apply the knowledge and skills acquired during the course effectively.

One limitation to this practice is that the process log requires additional time and effort from both the students and the professor in a course already tightly packed with reading and writing activities. While keeping a process log encourages students to work on their assignments more frequently, it also means that they need to allocate time regularly to revise and submit their work. Allocating this time can be challenging, especially when students have other academic commitments or face time constraints due to external factors, and these constraints discourage some students from keeping a log, or they limit the amount of self-reflection students might take up. Additionally, the professor needs to allocate time to review and provide feedback on each iteration, which can be resource-intensive. Consequently, the iterative collection of assignments may pose practical challenges and potentially increase the workload for both students and instructors.

One way to mitigate these challenges is to encourage legal classrooms to adjust traditional expectations for end-of-semester assessment. While traditional assessments often focus solely on the final product (e.g. getting students to write a “good” legal brief or memorandum), legal writing professors could promote self-regulated learning by factoring reflection and metacognition into the grade. While there is a longstanding tradition of assessing student reflective work in first-year composition classrooms, we advocate for bringing this tradition into the mainstream for legal writing classrooms. Through this reflective practice, students develop a deeper awareness of their strengths and weaknesses as legal writers and gain valuable insights into their own learning process.

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## ASSIGNMENT

### Instruction Manual for Writing a Brief

## Background & Context

Last semester, in addition to learning the genre of the Legal Office Memorandum, you also learned processes for teaching yourself how to write. You got practice reading, understanding and synthesizing new areas of law. And you developed skills and processes to help you be able to write, even as you were refining your knowledge of the genre. The “learning how to write” part should come a lot easier to you this semester. But it is nonetheless important that you continue to practice it. After you graduate, you will have to draft all sorts of documents that are unfamiliar to you. One of the goals of this semester is that you have a place to start if you’re asked to write a document you’ve never heard of. For instance, where would you start if you were asked to draft a contract between two roommates? A motion to compel discovery? A law review note or article? Legislation about education finance?<sup>3</sup>

## Purpose

This assignment will build on the practice you’ve had in using example writing samples (models) to understand what the genre of the brief looks like.<sup>4</sup>

Your assignment is to keep track of what you learn and what you teach yourself about writing appellate briefs so that you will have a resource to take with after this class. You will probably use what you learn to write your Tullis brief next year. This will be an ungraded assignment, but I will collect it at the end of the semester. Additionally, I’ll ask you to bring the document with you each time you meet with me (for office hours or for conferences) so that you can update it.

## Procedure

1. Use these activities about [learning a new genre & using what you’ve learned to write](#) (and what we learn in class) to train yourself how to use Model writing samples like an expert writer would.
2. Every time you sit down to work on the Appellate Brief, open up [this template](#) and jot down a few notes about your process. If you’d like, you can use [this process log](#), or you can just freewrite. Alternatively, you can create a special section in PowerNotes to jot down notes for yourself and then export those notes to your Capstone.
3. At the end of the semester, review your process log and arrange it in a way that will be helpful to your future self as a writing manual for the memo.

## FAQs

### *Will this assignment be graded?*

No. You will get credit just for turning in whatever you come up with. Remember, this is meant to be a tool for you to learn, not a way for me to assess your learning. Make this useful for you. (It is also useful for me in diagnosing where students are “getting it” and where they need more help. But that is a secondary goal.)

### *When is it due?*

At the end of the semester. After you’ve taken all your exams. But that’s just when you need to turn it in. You should work on it throughout the whole semester.

### *What if I’m too busy to work on it?*

You’d be amazed at how much you’re able to put down on paper if you just use this to help you organize your thoughts. And being intentional about your writing process now could even help you save time at the end of the semester, when you’ll be really glad you’re efficient.

### But what if I'm still too busy to work on it?

Try using a voice-to-text feature and just dictate your thoughts. I won't be grading for grammar or style (in fact, I won't be grading it at all).

## Notes

<sup>1</sup>Tanner has since adapted it for her course at the University of Louisville.

<sup>2</sup>See, Alexa Z. Chew & Craig T. Smith (2016) for more about the concept of “genre discovery” and Tanner (2022) for descriptive genre analysis in legal writing.

<sup>3</sup>The good news is that you won't be expected, for this class, to master every type of writing you'll be asked to do after you graduate. But you are expected to build the skills that will allow you to teach yourself these types of writing when you need to learn them.

<sup>4</sup>Remember what you learned last semester: *The skill of learning to write in a new genre will be one you will employ often in your future careers. Every law practice is different, but you may be asked to write: contracts, motions for summary judgment, initial public offering prospectuses, trial briefs, bench briefs or even legal opinions. You don't have enough time to devote to learning every single genre you'll need to know eventually while in law school. But you can develop the skills and processes to make learning those new genres easier once you're in a job or internship.*

## Supplementary Material

For supplementary material accompanying this paper, including a PDF facsimile of the assignment description formatted as the author(s) presented it to students, please visit <https://doi.org/10.31719/pjaw.v8i2.189>.

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