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# PREPARING YOUR WRITING SAMPLE

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A good lawyer must be an excellent writer. Often as part of the job search process, potential employers will ask to see samples of your legal writing. You should carefully select the writing sample you intend to submit as it may well form the basis of an employer's opinion about the overall quality of your writing skills. A good writing sample alone will probably not get you a job, but a poor writing sample may very well prevent you from getting an offer.

On the next page is a reprint of an excellent article from the *Bulletin* published by the National Association for Law Placement. Author David James shares his perspective on helping you select appropriate writing samples.

## CHOOSING AN APPROPRIATE WRITING SAMPLE

- Prospective employers are looking for a concise (ideally 4-7 pages, but no more than 10) legal analysis of an issue. The key to a good writing sample is your writing style and analysis: the document should frame the issue, analyze the issue and come to some sort of conclusion based upon the analysis.
- You can use a written work product from a legal job or internship, or one of the documents you prepared for your Legal Analysis, Research and Writing class – just make sure it's your best work!
- You may want to consider including a non-legal document with your legal writing sample. This can be especially effective for intellectual property positions (such as technical articles or published research) or as a reflection of your writing skills in general.
- When in doubt, *ask* the employer what kind of writing sample is most appropriate.

## PREPARING THE WRITING SAMPLE

- Prepare your writing sample in advance. Have one ready if an employer asks for one as part of an application package or during an interview/office visit.
- If you know you have done better or can do better, then don't submit a poor quality sample. Rewrite or edit the document if necessary.
- Work with your Legal Analysis, Research and Writing instructor. Solicit the opinion of the attorney or judge for whom you originally drafted the memo or brief.
- If you intend to use a written work product from a legal job or internship, make sure it does not contain confidential information. When in doubt, check with your supervising attorney or judge. You may be able to black out the confidential information.

## “HELPING STUDENTS SELECT WRITING SAMPLES—AN EMPLOYER’S PERSPECTIVE”

BY DAVID C. JAMES

A lot has been written about certain job hunting topics—for example, resumes and interviewing—but writing samples have not gotten much attention. Obviously, writing samples should be well written, free of misspellings, typo-graphical errors, and grammatical problems. But two other important issues seem to get overlooked: “When does the employer want a writing sample?” and “What kind of writing sample does the employer want?”

Some employers want to collect writing samples at the initial interviews, or even beforehand. I ask for writing samples at the call-back interview stage, once applicants have survived an initial interview. At interviews, students should be prepared to provide a writing sample in case the interviewer asks for one, but providing an unsolicited writing sample wastes paper. Students should provide a writing sample when their employer asks for it.

Employers prefer certain kinds of writing samples; yet, each year only a handful of students ask me what kind of writing sample I want. While employers will take what students have, certain kinds of writing samples serve the purpose much better than other.

Good writing samples are *legal* writing. Although this doesn’t seem very restrictive, it does disqualify some writing. Something the student wrote before law school is not my idea of legal writing. And, though magazine and newspaper articles might be worth giving to me, then can only supplement a writing sample. In discussing writing sample with other employers, I find in agreement on the following guidelines.

- **Provide persuasive writing**
- **Provide something from the real world**
- **Provide something recent**
- **Provide about 10 pages**
- **Provide something understandable**
- **Provide your own work**
- **Cross out parts written by someone else**
- **Excise confidential/sensitive information**
- **Avoid lurid subjects**
- **Don’t add a binder**

Persuasive writing allows employers to evaluate advocacy skills. Good choices include a well-written memorandum of points and authorities or a brief. Some kinds of analytical (as opposed to persuasive) writing are fine. For example, a bench memorandum for a judge puts a premium on practical research and writing skills. Writing that does not involve research, or that is scholarly but not practical, is less satisfactory.

Most employers want something from the real world—something done as a law clerk or extern. Second choice is a school exercise that simulates a real world product. Law review and other scholarly writing do not serve the need. Because students polish law review articles to the nth degree, the amount of time spent on them is all out of proportion to the time available in practice. And law review articles raise the question whether the editors blended their work with the applicant’s. The purpose of the writing sample is to convince the employer that the student can do the kind of writing the employer’s attorneys do. So, the best writing samples are projects that could have been done in the employer’s office.

A writing sample should be something the student wrote recently. Legal writing skills should improve with experience. When applicants give me two-year old writing samples, they might as well tell me their skills haven’t improved in two years. I treat writing samples as a measure of the applicant’s current skill level, without crediting the subsequent experience.

Employers don't need more than about ten pages to evaluate an applicant's writing skills. Two or three pages can be more than enough to discern that a writing sample is weak or strong, but it may take more reading to make finer discriminations. Because the competition is keen, I make fine discriminations among strong papers. Some applicants resort to overkill, providing a stack of writing samples. This excess stems from trying to cover all the bases, not knowing what the employer is looking for. It's more graceful simply to ask employers what they want.

Some students are not averse to using writing sample that most employers cannot readily understand. A student should send a writing sample that deals with an arcane subject only to employers who can appreciate it. Some writing samples have an elliptical quality, because students have cut them to create more manageable lengths. When students cut a paper, they should not delete necessary context, and they should annotate the cover—for example, "I have omitted Arguments III and IV."

A writing sample should allow an employer to assess the *applicant's* work. Sometimes an applicant's writing sample appears on its face to be someone else's work—for example, a sample maybe a memorandum of points and authorities or an appellate brief signed by a supervising attorney. If that is the case, applicant's need to explain their part and the attorney's part in drafting the memorandum. In law firms and clinics, students who are doing pleadings are sometimes given a boiler plate shell from which to start. In such cases, applicants need to explain what is boiler plate and what is original work. I've received writing samples with whole sections in common from students who clerked in the same office. Anytime applicants use writing samples containing work that is not their own, they should provide an explanatory note.

When students use a writing sample that is not entirely their own work—a moot court brief is a common example—they should cross out the part they didn't write. Simple annotating the front page with who wrote what doesn't suffice. Applicants need to make it easy. Unless they draw an "X" through or excise, the pages they didn't write, it's too easy to mistake someone else's work for theirs. When students hand over a writing sample during an interview, they can ill-afford the time it takes to explain who wrote what. Wasting time makes students appear unprepared. If students need to explain what they wrote, or anything else about their writing sample, they should write it on the cover sheet.

Students should excise confidential/sensitive information from their writing sample. Some applicant's thoughtlessly breach confidentiality. When students fail to redact out confidential material, it no longer matters whether they write well. They have tainted their application. When students delete confidential information they should insert fictitious material to maintain the flow of the text. Otherwise, reading their writing sample will be a real chore.

From time to time, students go awry trying to be memorable. They choose a writing sample with lurid subject matter, distracting the employer from the merits of writing. When students resort to shock value, the impression they're making is unfavorable.

Some students try to gain an edge by putting their application materials in elaborate notebooks. Documents like appellate briefs that are customarily bound are acceptable. But when students stick an unbound writing sample in a binder just to dress it up, they create two problems. One, binders take up room; someone has to strip the writing sample from its binder before putting it in the file. Two, once employers strip writing samples, they have to do something with the binders. I have received binders so expensive that I felt obliged to return them. Discourage students from burdening employers with binders.

I conclude with a bit of advice that many students want to hear, something career service professionals can comment to every student about every writing sample: "Put your name on it."