

Designing Assignments¹
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The writing assignment is the vehicle for teaching students how to be good legal writers. While the textbook and class discussion can describe how to write effectively, the writing assignment provides both the means by which students can apply and practice the skills you are teaching and the means by which you can assess how well they are learning those skills. Thus, you want to bring care and thought to the process of designing your assignments.

Designing a good assignment can be challenging, but it can also be one of the most creative parts of the job of a legal writing professor.

I. Overview

A. The writing assignment as the vehicle for teaching the skills we teach

learn by applying skills

B. Successful assignments help students learn these skills

in an intentional, not accidental, way
in a logical sequence
in way that is interesting and engaging

C. Unsuccessful assignments

are too difficult for students to handle at their level of development
do not teach students the breadth of skills necessary to serve clients
raise difficult issues that the professor did not anticipate

II. Designing the Assignment

A. Step One: Identify your pedagogical goals.

¹ Thank you to Mary Beth Beazley and Susan Kosse for the outlines they prepared for their sessions on Designing Assignments for past AALS Workshops and to my research assistant, Lauren McLane, for her assistance on this project.

1. Have an overview of what you want to accomplish in your course.
What skills are you hoping to teach students in your course?

a. What are your goals for the course, in general?

Research: primary and secondary sources
print and electronic sources
How to read and synthesize authorities
Legal analysis and the crafting of argument
Conventional formats of various legal documents
Objective/predictive and persuasive writing
Organization
Professionalism and ethics
General principles of good writing: effective paragraphing,
conciseness, precision, grammar, punctuation
Citation

b. What assignments will you have for the course?

How many assignments?
What type of assignments? Memos, briefs, client letters
Will students prepare first and final drafts?
How long will students have to draft each assignment, and
how long will you have to critique each?

2. Think about your goals for this assignment. Where does this
assignment fit into your course, and what specific skills do you want to
try to teach with it?

Limit the number of goals for each assignment.
Have realistic goals for what the students can accomplish
Each assignment should build on knowledge gained from
the previous assignment and provide a basis from which to
move to the next assignment.

3. What is the research universe?

Closed v. semi-closed v. open universe of research
State v. federal law
Statutory v. common law
Print v. electronic

4. What type of document do you want the student to write? Objective
analysis or advocacy piece?

Memos
Client/opinion letter
Judicial opinion or clerk's memo to a judge
Motion/appellate brief

5. Do you want to assign a problem that has a definite answer or an issue that raises arguments on both sides?

B. Step Two: Once you identify your pedagogical goals, create a problem that is designed to achieve those goals. Criteria:

1. Meet pedagogical goals – See above
2. Level of difficulty and length

Number of authorities and complexity

Length

Having students do more does not necessarily mean they learn more.

3. Creates arguments on both sides
4. Interesting

Must be a problem that you are comfortable teaching

Real case or made-up problem?

- "Ripped from the headlines"
- Real cases are sometimes "messy"

Things students are familiar with or that are easily accessible

- Not overly complex that requires specialized knowledge

Relate to first year courses: potential benefits and problems

5. Not too emotionally charged

Make it a learning experience, not a disabling one.

Try to avoid problems involving sexual assault, gruesome crimes, and be culturally sensitive.

6. Ideas:

Your colleagues

Your own practice experience

Newspaper, magazines, news

Browse course syllabi

Browse annotated code or practice book
Electronic search "elements" or circuit /3 split in jlr, ALR, or
case law database
Legal Writing Institute Idea Bank: <http://www.lwionline.org/>
Resources → Idea Bank
NYU Moot Court Casebook
Split Circuits: <http://splitcircuits.blogspot.com/>
U.S.L.W. Circuit Split Roundup

C. Step Three: Conduct some preliminary research to make sure that the problem will "work." Will the assignment achieve the goals you want to accomplish?

1. Confirm the above:

a. Meets pedagogical goals: Maybe you'll find some additional teaching moments you didn't already anticipate.

b. Not too difficult or long

Look for "hidden" issues that may explode on you.
Research it as your students would
Get a sense of realistic length

c. Creates arguments on both sides

d. Interesting

2. Make sure that the cases are not too emotionally charged.

3. Clipping service.

4. Make sure that the necessary research sources are available to students

5. As you research, create a notebook (or an electronic file)

Assignment sheet
Note teaching points
Copy/print out/download relevant authorities
Citation list

6. Write out the anticipated analysis?

if and how the analysis should work
anticipated length

But don't get locked into the way you see the analysis.

D. Step Four: Write up the assignment sheet. Is the assignment clear as to your expectations, and will it "head off" problems that students may run into?

1. Logistics

Submit in parts (statement of facts, issues, discussion/argument, first draft, and final draft)?

Give whole class the same client, divide them up into sides, or divide them into groups?

2. Be clear in stating what is required in the assignment sheet - due dates, expectations, what should and should not be addressed, goals?

3. Different ways of "packaging" the assignment

Fact pattern

Attach relevant underlying documents

Video of client interview or relevant events

Live client interview - can be fun, but risky

"Real" record - pleadings, reports, discovery, transcript

Give different assignment sheets for each phase of the assignment:

4. In drafting the fact pattern, "build in" teaching points.

Include facts that are not relevant

Writing issues

Diversity issues – names, challenge stereotypes, bias-free language

5. Keep in mind that students may use their assignments as writing samples. Be careful about silly names or outrageous fact patterns.

III. Debriefing: After students have completed the assignment and you've graded it, take notes on what worked and what didn't if you want to use it in the future.

Monday morning quarter-backing: Did the assignment work as you wanted it to? What would you do differently next time?

Pull good samples for future reference or to post for the class (with permission and without student's name).

IV. Congratulate yourself on a job well done!

Characteristics of Good Assignments and Top Ten Mistakes²

The "Ideal" Assignment

1. The ideal assignment should teach, and allow students to practice, specific skills.
2. The ideal assignment should be neither too difficult nor too easy.
3. The ideal assignments should involve subjects that are interesting, familiar, and realistic.
4. The ideal assignment should be researched.
5. An ideal assignment should be sensitive in its treatment of issues and individuals.

Top Ten Mistakes in Designing Problems

Number 1: The assignment is too difficult.

Number 2: The assignment fails to develop skills.

Number 3: The assignment is too long.

Number 4: The assignment is ill-defined.

Number 5: The assignment is not adequately researched.

Number 6: The assignment requires resources that are not available.

Number 7: The assignment is created without consultation.

Number 8: The assignment is too highly charged.

Number 9: The assignment is "all flash and no cash."

Number 10: The assignment is too boring.

² Lorraine Bannai, Anne Enquist, Judith Maier & Susan McClellan, *Sailing Through Designing Memo Assignments*, 5 Legal Writing: J. Legal Writing Inst. 193 (1999). The list was originally written to describe ideal memo problems, but can be applied to any assignment.

Bibliography and List of Resources

Lorraine Bannai et al., *Sailing Through Designing Memo Assignments*, 5 Legal Writing: J. Legal Writing Inst. 193 (1999).

Lorraine K. Bannai & Anne Enquist, *(Un)Examined Assumptions and (Un)Intended Messages: Teaching Students to Recognize Bias in Legal Analysis and Language*, 27 Seattle U. L. Rev. 1 (2003).

Miki Felsenburg & Luellen Curry, *Brutal Choices in Curricular Design: Incorporating Social Justice Issue into the LRW Classroom*, 11 Persp.: Teaching Legal Res. & Writing 75 (2003).

Gail Anne Kintzer et al., *Rule Based Legal Writing Problems: A Pedagogical Approach*, 3 Legal Writing: J. Legal Writing Inst. 143 (1997).

Jan M. Levine, *Designing Assignments for Teaching Legal Analysis, Research and Writing*, 3 Persp.: Teaching Legal Res. & Writing 58 (1995).

James B. Levy, *Dead Bodies and Dueling: Be Creative in Developing Ideas for Open Universe Memoranda*, 7 Persp.: Teaching Legal Res. & Writing 13 (1998).

Stephen Nathanson, *Designing Problems to Teach Legal Problem Solving*, 34 Cal. W. L. Rev. 325 (1998).

Terry Jean Seligmann, *Beyond "Bingo!": Educating Legal Researchers as Problem Solvers*, 26 Wm. Mitchell L. Rev. 179 (2000).

Helene S. Shapo & Mary S. Lawrence, *Designing the First Writing Assignment*, 5 Persp.: Teaching Legal Res. & Writing 94 (1997).

Amy E. Sloan, *Creating Effective Legal Research Exercises*, 7 Persp.: Teaching Legal Res. & Writing 8 (1998).

Grace Tonner & Diana Pratt, *Selecting and Designing Effective Legal Writing Problems*, 3 Legal Writing: J. Legal Writing Inst. 163 (1997).