



YLW GUIDE *to*

**WRITING
REQUIREMENTS**

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Yale Law Women is pleased to bring you the YLW Guide to Writing Requirements. The Guide includes basic information about the papers, tips on choosing a topic, and best practices for working with an advisor and managing the research and writing process. It was made possible by the hard work of the YLW Publications Committee and the invaluable advice of Noah Messing. We would also like to thank Debevoise & Plimpton for their generous support of YLW Publications.

1. BASICS

Each YLS student must complete two writing requirements: the Substantial and the Supervised Analytic Writing (SAW). While both papers must be supervised by faculty members, there are some important differences between the Substantial and SAW, outlined below.

	Substantial	SAW
Units	At least 2 units	At least 3 units
Grading	Graded or ungraded (grade election must be made at beginning of the project)	MUST be graded
Content	Does not need to meet the criteria for a SAW, but must be a "significant written project." Individual faculty, however, will set their own standards.	Aimed at increasing proficiency in legal research, analytic reasoning, and writing in a single field of concentration. May not be purely descriptive.
Length	Median length of 35 pages	Median length of 55 pages
Timing	Commonly completed before the SAW	Usually completed over 2 semesters
Advisors	Any (i) professor or (ii) lecturer (so long as the paper relates to one of the lecturer's courses)	Any faculty member at the law school with "professor" in his or her title (including visiting professors)

Timing

Both the SAW and Substantial must be completed before graduation. At least one of these papers MUST be completed before you can register for your final year.

- You must submit a signed form signed by a faculty supervisor in February of 2L year, certifying that you will complete the paper before the start of 3L year.
- One paper must be complete *and graded* before the **deadline of August 1** before 3L year. (For joint-degree students, the deadline is the last day of January exams). This means you must submit your paper to your supervisor early enough to give him or her adequate time to review, grade, and certify your paper to the Registrar's Office before the specified deadline.

While YLS is famous for its flexible requirements and bendable rules, this is a “hard” deadline and one of the few requirements for which the Registrar will not grant exceptions. Students who failed to meet this deadline in the past have been forced to take a leave of absence in order to fulfill the writing requirement. While this is rare, let it serve as a cautionary tale to plan ahead to ensure that you will have enough time to complete the requirement without the stress of barely beating the deadline.

Sequencing

It does not matter which paper you write first. Many students choose to write their Substantial first, as it can be very difficult to complete a SAW in one semester for a number of reasons. The SAW is typically a longer and more involved paper, and it may take longer to find a suitable topic. Certain paper advisors may also require various benchmarks and deliverables throughout the paper-writing process that may be hard to complete within a single semester. However, it may make sense to start the SAW first, depending on your personal goals. If you are interested in publishing, writing the SAW first will give you more time to develop your Big Idea and spread the writing out over more than two semesters. Some professors will not allow any student to begin working on a SAW during the second semester of the student’s third year of law school, so try to lock down a SAW supervisor before your final semester.

While not necessarily advisable, it is also possible to write both papers simultaneously. You may not finish both in the same semester, but if there is a particular class for which you want to write one of your two papers, do not necessarily rule it out just because you are already working on another.

Length

The required length for each paper varies with different professors. The Registrar’s Office has a binder of each professor’s standards, but know that this binder is fairly out of date – it was mostly compiled in 1996. However, the binder may nevertheless be a useful resource for those who are thinking of writing with a professor who has been at YLS for a while. The binder indicates that the page range for the Substantial is 25-50 pages, and 30-100 for the SAW. The median lengths are 35 pages for Substantials and 55 pages for SAWs. Keep in mind, however, that these medians will not necessarily satisfy the requirements of all professors. Also note that some professors have a maximum length (some professors will not accept papers exceeding 50 pages, for example).

Credit

You can write your Substantial or SAW through:

1. **Seminars or courses.** Many classes offer a paper option that can be turned into a Substantial or SAW, but it is important to speak with the professor about your intentions

to do so toward the beginning of the semester. It may, however, be possible to get Substantial credit for a paper even if you didn't originally intend to write a Substantial when you started the paper: It never hurts to ask!) If you choose to write a SAW or Substantial as part of a class (in lieu of the required course paper), you need to know the professor's deadline. Some professors require that the paper be written by the exam period or within two weeks following it. Failure to abide by these deadlines could result in having to drop the class.

2. **Research and writing under faculty supervision.** You may also work on a paper that is not part of a class. In this case, you can choose to take supervised research credit in lieu of a course.
3. **Intensive Semester Research Program.** This application-only program provides an opportunity to undertake a major research project at or away from the law school. See the YLS bulletin (<https://bulletin.yale.edu/sites/default/files/yale-law-school-2019-2020.pdf>) for more info.

2. CHOOSING A TOPIC

Inspiration

Topics of Particular Interest

The first step to identifying a topic is narrowing your choices down to those that excite or interest you. These may come up in your classes, in the news, in blogs, or in your everyday life. What angers or frustrates you? What seems wrong or inadequately explained to you? Read law professor blogs to find emerging issues. Set up a folder with your questions and thoughts, such as "Why does X happen?" and "What's X law?"

It is often helpful to search a topic of interest in the Journals and Law Reviews database (JLR) or the Index to Legal Periodicals (ILP). This is a good way to see what others have written in the field and to find an article that you might want to react to.

Unsettled Areas of Law

If nothing excites you, you can try to seek out unsettled areas of law.

- In Westlaw Classic, search for a field of law followed by the phrase "first impression." This will point you to issues within that field that have not yet been addressed by certain courts. For example, by searching *copyright w/8 "first impression*," you will be directed to copyright issues of first impression (i.e., those that a particular court has not addressed before).
- In Westlaw Next, search the phrase "we do not address." This uncovers instances where a court passes on an issue, suggesting that the question may come up down the road.

It can also be useful to search for issues where there has been a circuit split and the Supreme Court has denied cert.

- Nearly all professors believe traditional circuit split papers (*Circuit A did this, Circuit B did this – I think A is better*) do not make a significant enough argument or contribution to the literature. However, circuit split papers may be able to proffer a new argument by trying a formula like this: (*Some courts have done x, some have done y, but they should instead do z*). You might also search for terms (related to some area of law) that come up in very recent cases as a way of potentially identifying cutting-edge issues.

Resources for Finding a Topic

YLS professors can be a good source for topic ideas, but it's generally not advisable to go to a professor and ask him or her to suggest a paper topic. Some professors will want you to send them an abstract or one page proposal before you come to see them (see section 3 below). If you are starting from scratch, one approach is to ask a professor for interesting articles, decisions, or blogs that he or she has read recently on a topic that interests you. Alternatively, ask them about any conferences they've attended and then look up the speakers and papers to get yourself up to speed on cutting-edge research. This may help you generate a topic on your own.

Two useful resources contain great information about identifying paper topics (and also cover other aspects of research and writing the papers): Fajans and Falk's **SCHOLARLY WRITING FOR LAW STUDENTS** and Eugene Volokh's **ACADEMIC LEGAL WRITING**.

The library has also prepared a Guide for Substantial and a Supervised Analytical Writing (SAW) Research (<http://library.law.yale.edu/saw>). This handout provides more information on areas such as selecting a topic, developing your topic, and preemption checking (which means ensuring that your topic has not already been "taken"). For research help, you should set up a research appointment with the librarians when you have your topic.

Refining Your Topic

1. Contribute a new idea, perspective or argument. Do not just summarize existing research on your topic.
2. Frame your paper as an argument. According to some professors, even if you don't have an argument, your paper must at least be written as if you are arguing something.
3. Determine the scope of your paper. Don't bite off more than you can chew. On the other hand, your topic should not be so small that it doesn't have any gravity.
4. Preemption checks are important. Conduct a search to ensure someone hasn't already made the same argument (see the library guide outlined in section 4 below). But note that this doesn't

mean you can't write about a topic someone else has already tackled; you can always respond to, refine, or add to, existing arguments. Discuss this with a reference librarian who can help you find another argument within the topic.

3. SECURING A PAPER ADVISOR

Choosing the Right Advisor

Consider factors that will make an advisor a good fit for you and your topic. These factors might include a professor's area of expertise, methodology, requirements, and supervision style. Before you settle on a faculty advisor, you may want to consider the following questions.

1. Is this professor able to supervise your paper?

- Law school professors (including visiting professors) can supervise SAWs and Substantials. Lecturers and visiting lecturers may *only* supervise Substantials, and the paper should be in conjunction with a course they are teaching (make sure to check with the professor and the Registrar because the paper may need to be completed during the term in which the visiting lecturer has the appointment here).
- Some professors may only supervise your paper if you have taken a class with them, while some will not supervise at all (e.g., Judge Guido Calabresi).
- Some clinical faculty members supervise a very limited number of papers, and only if it is related to clinic work and if you've tried and failed to find another supervisor.

2. Does this professor have relevant interests and expertise?

If you don't already have a professor in mind, a little research can go a long way in terms of finding a suitable advisor who has relevant background and interest in your topic. Here are some ideas on how to find out more about professors' research interests.

- Professor bios on the YLS website provide background and publications (<http://www.law.yale.edu/faculty/faculty.htm>). You may also want to check out their substantial/SAW policy (<https://studentscholarship.law.yale.edu/people/faculty>).
- The library maintains a digital depository that includes publications by YLS faculty (<http://digitalcommons.law.yale.edu/>). This can be a useful place to look to see what various professors have written. You might also conduct an ILR search on particular professors with their name in the author field. Keep in mind however that they may be writing on different topics now than what they've previously published, so it is best to find out what they're interested in and working on now.
- The quarterly *Yale Law Report* (<http://www.law.yale.edu/ylr/>) has a regular feature called "Faculty Activities" that lists recent faculty publications and lectures. This provides a good, up-to-date snapshot of what many faculty members are currently working on.
- Use http://www.google.ca/advanced_search and <http://www.ssrn.com/> to find mass media or unpublished works by faculty.

- Don't forget to simply ask around! The Deans tend to have excellent information on faculty members' current interests, as do other YLS faculty and some librarians.

3. Is this professor a good fit for your theoretical approach and working style?

Be sure to consider your topic from a number of different angles, because there are many different professors who could be appropriate. Your topic may be education policy, but this topic could be relevant to the interests of a number of different professors. Perhaps you will be looking at legislation (in which case Professor Eskridge, Gluck, or Parrillo might be an excellent advisor). Or perhaps you want to conduct an empirical study (which might suggest that Professor Ayres, Brooks, or Jolls could be of help). Or maybe you are looking at issues of education funding through taxes (which might lead you to Professor Alstott, Graetz, Listokin, or Markovits). All of these approaches and potential faculty supervisors might be good options for an SAW or Substantial focused on education. Also note that the professor you choose may dictate your method, so keep that issue in mind as you think about whom to approach.

You can also get a lot of information about individual professors' requirements and style of supervision from other students. YLW compiles a Professor Information Contacts spreadsheet that includes contact information of upperclassmen and the professors that have supervised their writing. See: <https://inside.law.yale.edu/Organization/273/default.aspx>.

Seek out a professor with whom you are comfortable working closely. It is also important to be aware of a professor's particular standards, such as length, number of drafts, frequency of meetings, and so forth. Be aware that some professors may be overextended and overloaded with SAWs, which could affect the level of attention they are able to give your paper.

Approaching a Potential Advisor

Send an email to the professor with at least a paragraph about your idea. Avoid being overly general, such as simply stating that you want to write about "intellectual property." Prepare an email that both indicates your seriousness of purpose and gives you and the professor a jumping off point for conversation. Don't obsess about making it perfect; after all, you are a student and are still learning. You will likely rip up your draft idea with the professor, but invest research and thought into your initial idea so you have something to work with. But keep the message short and readable.

Once you've established that the professor is interested in working with you, be sure to cover the following topics during your initial meeting:

- The deadline (it is important to press the professor on this if he or she is vague)
- Anticipated number of drafts
- Writing schedule and plan

- How much time the professor will need to prepare feedback on drafts (note that feedback may take a significant amount of time).
- The professor's travel plans (for example, if you would like to send the professor a draft by spring break and he or she is traveling then, you will need to be aware of those logistics and plan accordingly).
- The best method of communicating with the professor (for example, some professors love exchanging ideas and feedback via email, while others will prefer students to schedule meetings through their assistant or come to office hours)
- Deadlines and accountability that you need from your advisor. Although some professors may simply say "turn it in at the end of the year," if you want to be held accountable to a certain schedule, let them know. It may be particularly helpful to provide a series of deadlines to the professor for specific elements of the paper, which may include an annotated bibliography, outline, and various drafts. This schedule can also give you an excuse to set up regular meetings.

After the meeting, go home and send a thank-you email that confirms all the dates and information you discussed. This will help clarify any misunderstandings, remind your professor of the commitments they made, and solidify your own commitment to meet deadlines! It also creates a record in case the professor forgets your agreement.

4. RESEARCH & WRITING

Structuring Your Paper

It is especially important to use a roadmap or outline as you write your paper. Noah Messing offers a simple paper structure that may be helpful. Don't follow this mindlessly—it's just a rough guide—but it can be a helpful starting point. Each of these three elements can be divided into multiple Parts (or combined into a single Part) as reason dictates.

Three Main Elements of a Paper

- Past: Here's the problem or what's happened in the past. By the end of this portion of your paper, readers should know the factual and legal background of the problem about which you are writing.
- Present: Here's what other scholars have said about this topic and related topics if the on-point literature is sparse. By the time readers finish these two phases of your paper, they know the state of play in the field. They're ready to learn and assess the value of your contribution.
- Future: My solution, recommendation, or framework for analyzing the issue. This is where you tell the reader what you are doing that's different from what's been done before.

Pay attention to how other similar articles are organized; you do not need to mimic their approach, but you might spot some sensible ideas.

Time Management

One of the biggest struggles of the writing requirements is simply setting aside time to get them done (on time). Here are a few tips from students:

- Give yourself time to develop a viable idea. This takes longer than you might think. Don't be afraid to ask for topic advice, particularly early on in the process.
- Build time for writing into your schedule. Writing these papers will take time. Set your credit hours accordingly and consider the time you need for writing when committing to extracurriculars or classes.
- Break the project down. Focus on the step in front of you, not the mountain – try to break the project into manageable, isolated challenges. Make sure you schedule everything in time for your professor to read at least one draft before you submit the final. In fact, if possible ask your professor to look at an outline before you start to write. Some students have found it helpful to make a week-to-week calendar for the entire semester, building in time to meet with paper supervisors about once a month and allotting a set amount of time for research and writing each section. If it helps, think of the Past, Present, and Future elements discussed above as a series of shorter papers.
- Set deadlines and create time pressure for yourself. If you're a known procrastinator, consider writing with a professor who is going to push you and enforce deadlines. You might also want to ask friends to keep you accountable, or set up writing appointments with friends.
- Avoid conducting substantial research, taking a break, and then forgetting everything. Try not to let the paper linger over the summer. (In the words of one student, "If you let it go into the first day of summer, chances are it'll go to the end of summer!")
- Consider journal drop deadlines if you're interested in publishing. You may want to build your internal deadlines around journal drop deadlines, which are available in the YLW-YLJ *Notes on "Notes" & Student Publications Guidelines* publication, available on our Yale Connect page.

Research Tips

There are a variety of ways to handle research for a major paper. Here are just a few things that have worked for students in the past:

- Conduct research theme by theme and then outline sections before starting to write. Print out or otherwise sort materials into thematic piles, and keep a running document with notes on each source.

- Build up a general body of knowledge about the topic, developing an informal citation list or lightly annotated bibliography.
- Conduct a first wave of literature review, then a second wave to formulate and tailor your argument.

The Yale Law School Library has a number of very helpful resources on conducting and managing research for the writing requirements. The guides are listed here:

<http://library.law.yale.edu/research-guides> and cover a wide range of topics, including:

- Research Management and Citation (tools and platforms for organizing bibliographical material)
- Preemption Checking (how to make sure your argument has not already been addressed by someone else)
- Introduction to Legal Resources (basic overview of different approaches to legal research, including finding relevant cases, statutes, and secondary sources)

Writing Tips

- Go with your “flow”: Skip to whatever is most interesting to you about your topic, whether it’s a specific section, or an area of research.
- Writer’s block: Force yourself to write freely and continuously for ten minutes. Alternatively, simplify your challenge: write one sentence. If the block persists, talk to Rob or Noah.
- Introduction: Write it last: you can’t introduce a paper until you know what you’re arguing. So work on the argument first (or the background if you’re still refining your theory).