

HOW TO FIND A WRITING TOPIC

Library & Technology Center

Research Guide

<http://www.fcsl.edu>



08/10

SCOPE

Student writing in the legal setting is unique when compared to other graduate student writing projects. Law students have the potential to reach an audience of legal scholars, lawyers, and judges that may rely on that paper for academic or professional support. Student legal writing is taken seriously by the profession and as a result must meet a very high standard. The standard for a student legal paper is to bring something new to the existing legal literature. The student must find a topic that does not duplicate another's work. It must raise new issues, propose new solutions, or look at existing issues in a new way. It can be intimidating to think of finding a topic that is original and creative but there are resources that can help. This pathfinder will help the student writer locate and use those resources and start the writer on the road to a topic that meets the legal writing standard of originality and usefulness in the legal community.

ORGANIZATION

This pathfinder lists resources that the writer may use to meet the SUNN approach to paper topics: Sound, Useful, Novel, Non-Obvious arguments. Think of the topic as a claim or an argument and focus on combinations of facts and issues that might not have been addressed and a theory that you would like to persuade the reader to accept or at least think about. Next check to see if the topic meets the SUNN requirements. For a topic to be "sound" it must be free from logical fallacies or holes in your argument. Try testing by using various cases to which your claim might apply, ask does this result look right? For a topic to be "useful" it must be legally relevant and important to the legal community. "Novel" arguments are original and creative and add to the existing knowledge. Because the audience for legal writing is very sophisticated the topic needs to be "non-obvious": something that the reader won't stop and say, "well, I could have thought of that." Once you find a potential topic a literature review must be done to make sure that no other article, "so completely and competently discusses the topic that you cannot significantly add to that discussion." You must also make sure that no case or statute has decided your issue. This is the preemption check. Preemption checks are valuable because the writer will improve her understanding of the topic's area of law, will see how the subject matter has been previously covered, and may find useful footnotes with leads to further resources. Don't panic if you find an article that covers your topic. There are many ways to look at a topic from a different angle that may save you from preemption. For help in starting your research after you choose your topic and determine that it is not preempted see the pathfinder, "How to Start Your ALWR Research." Actually, you have really already started your research by the time you have selected a viable topic. Remember, if you have any questions, ask a librarian.

*If you need help, please ask a librarian for assistance.
Reference Desk 680.7612*

RESOURCES

Resources to explain topic selection and preemption more in-depth:

This research guide has been put together using the resources listed in this section. For more in-depth help with finding your topic and the subject of preemption consult these resources.

Academic Legal Writing: Law Review Articles, Student Notes, Seminar Papers, and Getting on Law Review. Eugene Volokh.

Permanent Reserves (Behind Circulation; older editions in General Collection) KF250 .V65 2010

Scholarly Writing for Law Students: Seminar Papers, Law Review Notes and Law Review Competition Papers. Elizabeth Fajans & Mary R. Falk.

Permanent Reserves (Behind Circulation; older editions in General Collection) KF250 .F35 2005

1996 Utah L. Rev. 917-986 (1996). *Stalking the Golden Topic: A Guide to Locating and Selecting Topics for Legal Research Papers.* Meeker, H.

Periodical Collection (1st floor) & HeinOnline (Subscription Database) K25 .T34

Blog: Out of the Jungle: Thoughts on the Present and Future of Legal Information, Legal Research, and Legal Education, *Research Tools for Writing an Excellent Articles In Less Time.* Posted by Betsy Mckenzie on August 13, 2006. Retrieved from

<http://outofthejungle.blogspot.com/2006/08/law-review-writing-time.html> on 4/29/08.

Resources to find a Sound, Useful, Novel, Non-Obvious (SUNN) topic

(check resources for unresolved issues, circuit splits, unexpected consequences, upcoming hot topics, etc.

See “Resources to explain topic selection and preemption more in depth” above for more help)

Secondary Sources:

Secondary sources include teachers, treatises, hornbooks, casebooks, classroom discussion, newspapers, magazines, ALRs, existing student articles, loose-leaf services and newsletters, attorney general opinions, ethics opinions, books and articles outside the legal community.

Examples of treatises. Check library catalog for more titles.

Federal Practice and Procedure. Wright and Miller (updated with pocket parts).

General collection (2nd floor) KF8840 .W68

Farnsworth on Contracts. E. Allen Farnsworth.

General collection (2nd floor) KF801 .F367 2004

Examples of loose-leaf services. Check library catalog for more titles.

Legal Looseleaves in Print 2009. Arlene L. Eis (listing and subject index of the legal looseleaves published in the United States currently in print).

Reference collection (3rd floor) KF1 .L44

Florida Torts.

Regional collection (3rd floor) & Matthew Bender: KFF195 .F48

Authority on Demand (subscription database)

Nimmer on Copyright. Melville Nimmer.

General collection (2nd floor) & Matthew Bender: KF2991.5 .N5

Authority on Demand (subscription database)

Examples of newsletters and journals. Check library catalog for more titles.

Legal Newsletters in Print 2009: Including Electronic and Fax Newsletters. Arlene L. Eis (contains detailed bibliographic information and indexing on 2,500+ newsletters published in the United States)
Reference collection (3rd floor) KF1 .L45

Florida Jury Verdict Reporter.
Regional Collection (3rd floor) KFF195 .A59 F55

Florida Law Weekly.
Regional Collection (3rd floor) & Florida Law Weekly (subscription database) KFF47.1 .F57

IPL Newsletter.
Current issues on Reserve (Circulation) KF2972 .I65

United States Law Week.
Reference Collection (3rd floor) & BNA (subscription database) KF25 .N47

CCH Federal Tax Weekly.
CCH Tax Library (subscription database)

Food, Drug, Cosmetic Law Reports.
CCH Health and Human Resources Library (subscription database)

Examples of Attorney General and ethics opinions.

Memoranda and Opinions of the Office of Legal Counsel of the United States Department of Justice.
General Collection (2nd floor) & HeinOnline (subscription database) & US Department of Justice website (KF5050 .A5556)
(<http://www.usdoj.gov/olc/opinionspage.htm>)

American Bar Association Ethics Opinions.
American Bar Association website <http://www.abanet.org/cpr/pubs/ethicopinions.html>

Florida Bar Ethics Opinions.
Florida Bar Association website
<http://www.floridabar.org/tfb/TFBETOpin.nsf/EthicsIndex?OpenForm>

Examples of legal news services, organizations, blawgs, etc.

American Lawyer.
Periodicals Collection (1st floor) & Current Reading (3rd Floor) K1 .M448

National Law Journal.
Reserve (Circulation) & Current Reading (3rd Floor)

American Civil Liberties Union (ACLU) at <http://www.aclu.org/>.

National Organization for Women (NOW) at <http://www.now.org/>.

PrawfsBlawg at <http://prawfsblawg.blogs.com/prawfsblawg/>.

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Examples of Florida Coastal subscription databases for non-legal title searches

These databases are available on the library homepage through the "Subscription Databases" link under "Resources" Please note any access restrictions. You may also need to visit UNF library or make an ILL request for non-legal texts. For more information, ask a reference librarian.

SSRN (legal and non-legal)

ProQuest

FirstSearch (includes ERIC and WorldCat plus many more)

Examples of free resources on the Web for non-legal title search

Google Scholar

[Http://scholar.google.com](http://scholar.google.com)

PubMed

<http://www.ncbi.nlm.nih.gov/pubmed/>

ERIC

<Http://www.eric.ed.gov>

WorldCat

<Http://www.worldcat.org/>

Primary Sources:

Primary sources include state and federal cases, state and federal annotated statutes, federal regulations, state and municipal regulations, administrative agency decisions, proposed regulations or legislation.

United States Code Annotated (USCA).

Federal Collection (1st floor)

KF62.5 .W45

United States Code Service (USCS).

Federal Collection (1st floor)

KF62 1972 .L38

Federal Register.

Federal Collection (1st floor) & HeinOnline (subscription database)
& GPOAccess at <http://www.gpoaccess.gov/>

KF70 .A2

Code of Federal Regulations.

Federal Collection (1st floor) & HeinOnline (subscription database)
& GPOAccess at <http://www.gpoaccess.gov/>

KF70 .A3

West's Florida Statutes Annotated and LexisNexis Florida Annotated Statutes

Regional collection (3rd floor)

KFF30 1941 .A43 and KFF29.L49 2009

Florida Administrative Code Annotated.

Regional collection (3rd floor)

KFF35 1986 .A22

Environmental Administrative Decisions: Decisions of the US Environmental Protection Agency.

General Collection (2nd floor)

KF3775 .A558 1995

& Environmental Appeals Board website <http://www.epa.gov/eab/>

Administrative Decisions under Immigration and Nationality Laws.

General Collection (2nd floor)& Executive Office for

KF4812 .A2 U55

Immigration Review virtual law library at <http://www.usdoj.gov/eoir/vll/libindex.html>

Finding Tool - Digest Examples

While most people search for relevant cases electronically, it can be useful when searching for a writing topic to skim a digest that arranges case issues by topic.

West's Federal Practice Digest 4th.

Federal Collection (1st floor)

KF127 .W48 1989

West's Florida Digest 2d.

Regional Collection (3rd floor)

KFF57 .W47 1984

Resources to perform a preemption check

Check periodical indexes for articles with complete and competent coverage of your topic and use primary sources above to make sure there are no recent cases, new legislation or regulations that decide your issue. See also “Resources to explain topic selection and preemption more in depth” above for more help. For help formulating effective searches for online databases ask a librarian.

Current Law Index.

Reference collection (3rd floor) & *LegalTrac* (subscription database) K33 .C87
Also called *Legal Resource Index* & available through Lexis & Westlaw

Index to Legal Periodicals.

Reference Collection (3rd floor) and Westlaw K9 .N32

CILP (subscription database) and Westlaw

LRAC -Law Review Abstracts Clearinghouse on Westlaw (articles that have not yet been printed).

SSRN (subscription database)

Examples of excellent scholarly writing by law students

See “Resources to explain topic selection and preemption more in depth” for more examples.

82 Marq. L. Rev. 171- 204 (1998-1999). *Should Clergy Hold the Priest-Penitent Privilege?* Mazza, M.
Periodical Collection (1st floor) & HeinOnline (subscription database) K13 .A684

105 Harv. L. Rev. 1005-1024 (1991-1992). *Why Learned Hand Would Never Consult Legislative History Today.* Filip, M.

Periodical Collection (1st floor) & HeinOnline (subscription database) K8 .A69

101 Yale L.J. 505- 526 (1991-1992). *Driving Dixie Down: Removing the Confederate Flag from Southern State Capitols.* Forman Jr., J.

Periodical Collection (1st floor) & HeinOnline (subscription database) K29 .A4

Florida Coastal student ALWR examples

Available from the Writing Center Office & at <http://www.fcsl.edu/node/202>

Cyberbullying.

http://www.fcsl.edu/sites/fcsl.edu/files/alwr_samplepaper.pdf

Juvenile Justice: A Sheep in Wolf's Clothing.

http://www.fcsl.edu/sites/fcsl.edu/files/alwr_samplepaper2.pdf

Transforming the Urban Landscape: Gentrification and the Post-Kelo Power of Eminent Domain.

http://www.fcsl.edu/sites/fcsl.edu/files/alwr_samplepaper3.pdf

The Coalition of Immokalee Workers and Other Developments in Worker Centers.

http://www.fcsl.edu/sites/fcsl.edu/files/alwr_samplepaper4.pdf

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