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WRITER'S BLOCK

GROOMING GOOD LEGAL WRITERS THROUGH TAILORED, CONSTRUCTIVE FEEDBACK

BY DAVID H. SPRATT



Having just finished grading forty-three trial briefs in my first-year Introduction to Advocacy Class (whew!), my thoughts turn to the importance of providing legal writers with effective feedback.

As simple as it may sound in theory, writing comments on another's legal work product is an acquired skill that requires both thought and practice. Whether true or untrue, most novice legal writers think that they are good writers (and most probably are, but not necessarily in the legal writing context). A major part of becoming part of the legal discourse community is learning how to write and think "like a lawyer." One of our primary roles as a "teacher," whether we exercise that role in a classroom or in a mentoring role as a senior associate or partner, is to provide novice legal writers with effective comments on their draft work product. Comments must be well-thought, specific, and on-point to be effective—if the comments seem sarcastic, hurried or "stock," then the writer is less likely to read them, let alone assimilate them and apply them to the next draft.

Below are some tips that should help you provide effective comments on the work product of those whom you supervise:

1. Accentuate the positive.

Shocking to hear, but even the worst legal document has some merit. Solid editing and proofreading, creative analysis, attention to formatting detail, well-researched—these are a few items you might highlight positively in documents that are otherwise poorly drafted. Sometimes you will have to stretch a little because some documents are little more than grammatical and stylistic nightmares. Resist the temptation to lash out at the writer without providing some sort of positive reinforcement. Search for something that worked well in the particular document—without being sarcastic: "Nice name," "Good choice of font!" or "Excellent margins!" may seem funny to you but can demoralize a writer who *might* have worked hard on the document. Positive comments also typically increase the writer's

incentive to do better on the next draft.

2. Avoid using red pen to make comments.

Although it seems silly, writers respond better to "cool" colors (like blue, green, or purple). To borrow from another academic, red ink looks like blood and screams at the writer, "How dare you make this mistake!"

3. Avoid the temptation to line edit or rewrite the paper for the writer.

Granted, resisting the temptation to rewrite a document is often incredibly time-consuming, but ultimately our goal as "teachers" is to teach the writer to internalize good writing strategies and make his own decisions. Sometimes, however, it is useful to edit one section or sentence and then refer the writer to that section as an example of how to improve the rest of the document. (Yes, I can hear the masses reading this suggestion and telling me that they do not have time to engage in reviewing multiple drafts. I feel your pain. Having said that, once a writer begins to make wise decisions about her own writing, the amount of time necessary for a supervisor to edit a draft becomes far less.)

Correcting or noting *all* errors of style or grammar prevents a writer from taking responsibility for self-editing. Line editing shows your annoyance, but it teaches very little. Pointing out two or three kinds of errors can show the need to focus revision on these specific areas.

Remember, your goal is not to teach each writer to write exactly like you do (see below) but to implement effective writing strategies. There is definitely more than one effective way to write the same sterling legal document.

4. Be specific.

Writers usually respond better to specific comments. If a comment is unclear, vague or difficult to understand, a writer will likely ignore the comment.

5. Watch your tone.

Comments that appear helpful,

supportive, and encouraging are more effective than those that express frustration, sarcasm, or annoyance. Having said that, if a writer clearly hasn't expended effort on a draft, let him know in no uncertain terms, for example, "This document is more of an outline than a draft; you have a lot of work to do on this document to get it up to acceptable standards."

6. Provide advice and explanation.

Studies indicate that writers think that advice and explanation allow more room for productive revisions. Try to suggest, rather than command, ways to revise, and provide explanation for your suggested revisions, where applicable and when time allows.

7. Avoid sarcasm and humor.

Say it isn't so, but even the most innocent humorous comment can be misunderstood as mocking or sarcastic! Resist the urge to type "WTF: Why the Face?" on a document that you are reviewing.

When I first started teaching some 15 years ago, I strived to ensure that each of my students wrote a "perfect" legal document—just the way that I would have written it. I line edited, I redrafted, and I showed them by my revisions exactly what a "perfect" legal document should look like. Now definitely older (and arguably wiser), I strive to teach my students effective writing strategies that they can apply to future assignments. Do the same with those whom you supervise; taking the extra time now to work with and groom a novice legal writer will pay off in the end.

As always, questions, comments, or suggestions are welcomed (even encouraged)!

David H. Spratt is a professor at The American University, Washington College of Law, where he teaches Legal Rhetoric, Introduction to Advocacy, and Family Law Practice and Drafting. Professor Spratt practiced family law for 10 years and is a former chair of the VBA Domestic Relations Section.