

**American University Washington College of Law  
Upper-Level Writing Requirement Policy Statement**

**I. Purpose of Requirement**

As a requirement for graduation from the Washington College of Law, all students must meet a minimum legal writing requirement after completion of the first year of legal study. The purpose of the upper-level writing requirement (ULWR) is to ensure that prior to graduation, each student shall have demonstrated competency in legal research and writing by composing, under faculty supervision, a product that evidences qualities of legal scholarship, writing ability, and craftsmanship. Faculty supervision means faculty involvement in the selection of the topic and research plan, formation of the outline, review of the rough draft, and critique of the final draft after submission. Faculty includes members of the full-time and adjunct faculties.

Once a faculty member has undertaken to supervise a written work product, the student may not submit that product for review by another faculty member for any purpose without the supervising faculty member's consent.

**II. Fulfilling the Requirement**

The ULWR may be fulfilled by writing a single topic paper that satisfies four primary criteria: 1) a minimum length requirement, 2) is written under faculty supervision, 3) is completed in connection with a law school seminar or other law school activity of at least two credit hours, and 4) is of sufficient quality.

**For students matriculating before Fall 2016:**

The upper-level written work requirement may be satisfied by writing a paper in connection with a law school seminar when the seminar instructor certifies that the main evaluative instrument will satisfy the requirement. It may also be satisfied in other ways as long as it is prepared under the supervision of a WCL faculty member starting with topic selection and meets the requirements of the policy statement. What is essential, however, is that the written product, in whatever form or length, should be informed and reflective and *of at least 30 pages in length*. Given the purpose of the project and the method(s) used, it should reflect appropriate legal craftsmanship; a substantial commitment of time, effort, and thought; and demonstrated competency in legal research and writing. A grade of C or better received for two credit hours of work is required to satisfy the requirement, and students should consider completing this requirement prior to their last semester of law study.

**For students matriculating after Fall 2016:**

The ULWR is fulfilled by writing a document or series of documents *of at least 7000 words*, excluding footnotes. The document must be written in connection with a law school activity of at least two credit hours, and supervised by a faculty member who has approved the writing project in advance and approves the final product. This written work also must demonstrate proficiency in writing and analysis; incorporate adequate original research; and the student must earn a grade of B or better or, if satisfied through an option that does not provide grades (such as a law journal), be eligible for a

grade of B or better for the course or academic activity with which the work is associated.

Jointly written products are presumed not to meet the requirement in the absence of special justification, including the ability to separately identify the work product of the student seeking credit and an evaluation by a WCL faculty member that this portion of the joint product, standing alone, satisfies the ULWR. (See II.D., *infra*, for special rules pertaining to interschool moot court briefs).

Additional guidelines for some of the most common ways by which students fulfill the ULWR are detailed below:

### **A. Fulfilling Through a Course or Seminar**

A student may fulfill the ULWR through a course or seminar that involves writing a paper that satisfies the ULWR length requirement. Faculty teaching a course or seminar requiring a written paper that satisfies the ULWR shall so certify in writing to the Registrar prior to advance registration for the course or seminar. To certify that a student has complied with the ULWR, the completed Certification of Compliance form (available from the Office of the Registrar or the Office of Student Affairs) must be submitted to the Registrar at the completion of the project. A notification of completion of the requirement will be added to a student's transcript and viewable on Eagle Service/Academic Progress within one month after submission of the Certification of Compliance.

If a particular course or seminar by which a student wishes to produce her or his ULWR has a paper component as a method of assessment, but the paper is not of a sufficient length which will satisfy the policy's length requirement, the student has three options:

1. Elect not to satisfy the ULWR through that course or seminar,
2. Elect to satisfy the ULWR by writing a paper that meets the length requirement without seeking any extra credit for the work that exceeds the course or seminar requirement, or
3. Elect to satisfy the ULWR and seek up to one extra credit for the additional work by registering at the outset of the course for an Independent Study Project and complying with the length guidelines governing such projects. For example, if the requirement for a course or seminar is a 20-page paper, and a student writes a 40-45 page paper, an additional hour of credit could be earned through an Independent Study Project by the addition of the 20-25 pages to the original 20 pages. The number of credits applied for on the Independent Study Contract should list only the additional credits for the independent study.

### **B. Fulfilling Through an Independent Study Project**

Student papers or work product written under faculty supervision for an Independent Study Project may also satisfy the ULWR. When the requirement is to be satisfied through an Independent Study, it must be for a minimum of 2 credit hours, and the standard requirements of an Independent Study Project must also be met. Note that an Independent Study Project should be approved by a faculty sponsor and the Dean of Students prior to a student's beginning work on the project. To certify that a student has complied with the

ULWR, the completed Certification of Compliance form (available from the Office of the Registrar or the Office of Student Affairs) must be submitted to the Registrar at the completion of the project. A notification of completion of the requirement will be added to a student's transcript and viewable on Eagle Service/Academic Progress within one month after submission of the Certification of Compliance.

### **C. Fulfilling Through a Law School Journal**

Student notes or comments which have been recommended for award of full credit by the appropriate editors of one of the law school student scholarly journals are eligible for consideration for meeting the ULWR as the project was produced in connection with a law school program weighted at 2 credit hours (journal staffers receive 2 credits for satisfying the publishable quality standard and performing a certain number of hours of work). If a student seeks to use written work on a journal to fulfill the ULWR, seeking the project's review and eventual approval by a faculty member **at the outset is mandatory**; faculty members are prohibited from approving any writing project intended for journal submission that is first presented to the faculty member after it has been written.

It is expected that journal editorial staff will play a significant role in the development of the written work, as per requirements in each journal's policy manual. Over the course of the preparation of the paper, meetings must be held between the student and the editor to ensure a discourse and appropriate review. Typically, this student/editor interaction should involve a meeting to discuss the selected topic, a meeting to critique the initial outline, a meeting to review a rough draft, and a meeting to review the final draft. The extent of the role played by the faculty supervisor in the development of the project is largely within faculty discretion and should be determined and agreement upon at the outset of the note/comment process.

At the conclusion of the journal's final review of the project, the acceptance of the work by the journal indicates that the project satisfies the ULWR criteria of sufficient length and credit hours. However, final approval of having produced a project of sufficient quality to fulfill the ULWR is at the discretion of a WCL faculty member. Thus, after the final project is accepted by the journal, the student may submit the work for faculty review.

Upon receipt of the project, a faculty member will review and evaluate the paper submitted by the students, and may: 1) accept the paper and certify that the standards of the ULWR have been met; 2) make recommendations for changes in a final draft by the students; or 3) reject the paper as insufficient to satisfy the ULWR. Because the faculty member is deciding only whether the paper meets the ULWR standards, a negative decision by a faculty member does not prevent the journal for which it was produced from accepting it as meeting its "publishable quality" requirement and awarding academic credit without incorporating the changes required by the faculty member for the purposes of certifying compliance with the ULWR.

To certify that a student has complied with the ULWR, the completed Certification of Compliance form (available from the Office of the Registrar or the Office of Student Affairs) must be submitted to the Registrar at the completion of the project. A notification

of completion of the requirement will be added to a student's transcript and viewable on Eagle Service/Academic Progress within one month after submission of the Certification of Compliance. All other documentation between the student, the journal, and the faculty member regarding the paper and oversight of the paper should be maintained by the student.

In the event the journal does not recommend that the student paper meets the journal's publishable quality standard, with the result that the student will not receive 2 hours of academic credit from the journal, the student may request the same faculty member to sponsor a 2-credit Independent Study Project and tender the note or comment in satisfaction of the written work product requirements of the project. The faculty member is not obligated to undertake sponsorship of such an Independent Study Project under any circumstances. Further, the faculty member, in her or his discretion, may require the student to make any changes in the note or comment s/he feels are necessary and appropriate to permit her or him to award 2 hours of academic credit and certify compliance with the ULWR.

#### **D. Fulfilling Through an Interschool Moot Court Brief**

An upper-level interschool moot court brief may also satisfy the ULWR if the student's individual work meets the ULWR length standard and the quality and complexity of the legal analysis is on the same level as that expected from any other work considered for the ULWR. The student must receive two credit hours for either Moot Court or an Independent Study Project. To certify that a student has complied with the ULWR, the completed Certification of Compliance form (available from the Office of the Registrar or the Office of Student Affairs) must be submitted to the Registrar at the completion of the project. A notification of completion of the requirement will be added to a student's transcript and viewable on Eagle Service/Academic Progress within one month after submission of the Certification of Compliance.

A student cannot satisfy the ULWR with a brief that was co-authored unless the student's portion of the brief independently meets the length requirement. Each student must submit a coherently written legal analysis of the issues for which s/he is responsible that satisfies the ULWR length requirement. In practice, competition maximum brief length limitations will require that the student either present a draft brief covering her or his issues that meets the ULWR length requirement and has been carefully edited, or expand her/his portion of the final brief to satisfy the length requirement.

The decision whether to approve a given moot court product for the ULWR is to be made on a case-by-case basis by the sponsoring faculty member.

### **III. Nature of the Product**

While the ULWR may take the form of a traditional seminar paper, the product does not have to appear in a traditional form. Products evidencing qualities of legal scholarship and craftsmanship can range from highly abstract to eminently practical contributions. The product may emphasize a

variety of skills, such as:

**A. Problem Solving:** The student may define a problem or a series of problems and propose and evaluate solutions using the processes of the law. This product could include opinion letters, analyses or drafts of proposed legislation, petitions for or comments on agency rule or the like.

**B. Empirical Research:** The student may undertake empirical research as a method of inquiry in to a legal problem and analyze the results, and have such writing considered for the requirement.

**C. Legal Advocacy:** Legal writing in the context of real or simulated litigation (i.e., advocacy courses, interschool moot court competitions, and clinical programs) may qualify only if it exhibits significant legal scholarship and analysis of complex subject matter, and otherwise satisfies all the requirements of the ULWR. For example, a trial brief which analyzes the legal and evidentiary issues of the litigation or memoranda and motions on complex or novel issues could qualify under this section.

#### **IV. Criteria for Scholarly Quality**

**A.** Scholarly quality is not measurable solely in terms of the number of hours devoted to the legal research or the length of the final product. These objective measures, however, often may be an indication of the student's seriousness of purpose, the useful learning hours devoted to the project, and the thoroughness of the final product. What is essential is that the written product is informed and reflective; and, given the purpose of the project and the method(s) used, reflects appropriate legal craftsmanship. In sum, the final product should reflect a substantial commitment of time, effort, and thought, and should demonstrate competency in legal research and writing.

**B.** Students should be advised of the desirability of completing this requirement prior to their last semester of legal study to have sufficient opportunity to satisfy the scholarly quality component. Since all product submitted for ULWR certification must be produced under faculty supervision, sufficient time must be allowed in the opinion of the faculty for that supervision to occur. With the permission of the instructor, a student may be given an incomplete if the paper does not meet minimum requirements to provide an opportunity for additional research and writing to bring the paper up to the minimum level required for certification of compliance.

**C.** If the faculty member gives a paper a grade of "A" and believes it is of high excellence and makes a substantial contribution which will be of value to others in the same field, the faculty member shall submit a copy of the paper for deposit in the Pence Law Library. In addition, a letter signed by the Associate Dean for Student Affairs shall be placed in the student's permanent file with a copy to the student noting that the paper has been designated an outstanding paper and deposited in the library. To facilitate the administration of this section, a faculty member who certifies a paper as meeting these standards should forward a copy of the Certification of Compliance form to the Associate Dean, with the required signature allowing the law school to deposit the student's work in the library, in

compliance with federal privacy laws, the original and a copy of the paper being given to the Registrar for transmission to the Pence Law Library.

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