



# The Yale Law Journal

## Guide to Writing a Note or Comment Based on Summer, Clinical, or RA Work

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### I. Introduction

Notes and Comments published in the *Yale Law Journal* always come from SAWs and Substantials, right? Nope! Student scholarship can, and has, come from a variety of sources, including clinical work, RA projects, and summer jobs.

This Guide, created with the help of interviews with recent student authors, provides tips and tricks on how to prepare a Note or a Comment from one of these sources.

## II. Background and Resources

### Notes and Comments

*YLJ* publishes two kinds of student scholarship: Notes and Comments. Any J.D. student at YLS can submit a Note or Comment to *YLJ*.

- The most obvious difference between these two forms of scholarship is length: the word limit for Notes is 15,000 words, whereas the word limit for Comments is 3,500 words.
- A **Note** should advance a particular area of legal scholarship beyond its current state, make a detailed argument, and provide persuasive evidence for each of its conclusions.
- A **Comment**, in contrast, should present a concise yet still original argument and have minimal literature review. Comments often (but need not necessarily) respond to a recent development in the law, such as cases, legislation, law review articles, lawsuits, administrative rulings, and executive orders.

### Drop Dates

Submissions are due on [drop dates](#) spread throughout the school year. Volume 124, for example, had five drop dates for both Notes and Comments, beginning in February 2014 and ending in November 2014. After each drop date, *YLJ* will inform authors that their piece has been (1) accepted, (2) given a Revise and Resubmit letter (R&R), or (3) rejected. Most submissions receive an R&R, which provides suggestions for improvement. Many of the pieces that *YLJ* ultimately accepts have been resubmitted in response to an R&R.

### NDEs and CDEs

In addition to receiving feedback through R&Rs, prospective authors can work with Notes Development Editors (NDEs) and Comments Development Editors (CDEs). NDEs and CDEs can discuss your ideas with you or provide feedback on a draft. If you are interested in working with an NDE or CDE, please email one of *YLJ*'s Managing Editors. Typically, the deadline for requesting an NDE or CDE falls about ten days before the drop date.

### Additional Resources for Prospective Authors

*YLJ* now also offers additional resources to help you develop your writing. You can submit an anonymous question or blurb about a potential submission to a [Google form](#), attend office hours in the YLS dining hall in advance of drop dates, or take a look at [Common Suggestions for Notes and Comments](#). *YLJ* welcomes suggestions for additional ways to facilitate student participation in the submissions process; if you have ideas, please email *YLJ*'s Managing Editors.

With this background in mind, we move on to tips gleaned from interviews with Note and Comment authors on the process of turning clinic, RA, or summer work into a Note or Comment.

### **III. Identifying a Topic**

In each interview, we asked authors: “How did you first discover and become interested in your topic?” All authors responded similarly: in the course of researching for a memo or brief, they discovered a puzzle. Sometimes the case law was scant; sometimes existing material was unsatisfying; and sometimes there were inconsistent practices across states or jurisdictions.

In general, authors recommend paying attention to questions or issues that nag at you. If, as you’re writing your summer job, clinic, or RA assignment, you feel that something just isn’t right, this could be a great topic to pursue.

In the litigation context, one author noted that she had wanted to make certain arguments on behalf of her client, but she had felt that they were too far outside of the existing case law to be appropriate for her brief. She then went on to make these arguments in her Note.

Authors came across these puzzles through many different projects: multi-state surveys, legal research memos, briefs, motions to dismiss, and more. So keep an eye out for questions to explore as you take part in clinical, RA, summer job, and other experiences during your time at YLS!

### **IV. Transforming Work Product into a Note or Comment**

While all of the authors we spoke with found it extremely helpful to have generated a memo, paper, or litigation document on their topic, none simply turned that work product wholesale into their Note or Comment submission.

In one case, where an author’s Note was inspired by her work in the Immigration Legal Services Clinic on behalf of a domestic violence survivor seeking asylum, the author used the research she had done to write a brief as a basis for the legal background section of her Note. She also used the country-conditions research she had conducted for her client as a source of examples in the Note. Nonetheless, she still began writing her Note afresh, separately from her clinic work product, in order to produce a piece that moved a bit beyond the aims of a brief.

Generally, authors reported that their RA, clinic, or summer job memos had provided them with the baseline research needed to jump further into the topic. Typically, these memos required a concise and concrete answer, and writing a Note or Comment was a way to unpack the greater complexity underlying the memo’s narrow focus. Authors also found

that, while memos typically referenced cases directly on point, Notes or Comments required them to look more broadly at the legal issues undergirding those cases and at the related legal scholarship.

Finally, it may be helpful to ask yourself how you can make the topic of your work product interesting and relevant to a broader audience than may have been present when you wrote your work product originally. One author observed that a memo he wrote for his 2L summer job had been framed around a descriptive question, and that the memo had taken the form of an advocacy document that presented a survey of the field. In order to transform it into a Comment, he shifted to a new framework and asked himself: “What would be necessary to make a viable argument about this issue before a court?”

## V. Working with Others

### Supervisors

Many of our authors worked with supervisors at various stages in the writing process. Some supervisors were from summer jobs or clinics; others were professors. Often, students drew on support from both sources. Typically, authors alerted their supervisors that they intended to write the piece and sent them a draft to review. They also consulted with professors for feedback.

Several authors noted that enlisting supervisors is helpful not just for feedback on content but, perhaps even more critically, for accountability. If you tell your clinic supervisor or your summer mentor that you’re planning to write a piece, you’ll likely feel a greater sense of commitment (or at least obligation) to the project.

Some students formalized these supervisory relationships and sought academic credit for their writing; others spoke casually with their supervisor in order to bounce around ideas. Some consulted professors before submitting; others did so only after YLJ had accepted their piece, during the editing process. You might do any or all of these things. There’s not one right way to enlist support from others, but do enlist help from *someone*; this is not a process best done alone.

A note on RA work in particular: it’s likely that the professor for whom you’re working will want to use what you’ve produced in their own academic writing. You should check with them in advance of submission about whether it’s possible to preserve some part of your research for your own writing.

### Student Co-Authors

Occasionally, students work together as co-authors. We spoke to two authors who had done this (on two different pieces), and both highly recommended the experience. The pros

are perhaps obvious: it's fun to have another person to work with; it's helpful to bounce ideas off of each other; and the writing ends up being much sharper.

Of course, it's important to be on the same page about expectations. If you're thinking of co-authoring a piece, talk with your co-author about your work styles and how you anticipate doing the writing and editing. Will you divide up the sections and then swap for edits? Will you write collaboratively? And when you disagree, how will you compromise? Involving your NDE or CDE—or your Lead Editor, if your piece has already been accepted—can be a helpful way to set these collective expectations.

You might identify your co-author in a variety of ways. Perhaps you're in the same clinic group or seminar and have already worked together. But you might also just hear that someone has a great idea and decide you want to get involved. If so, reach out to the person! And if you have a great idea and would prefer to work with someone else, ask around.

Finally, if you've worked with others on a project that you're planning to use as the basis of a Note or Comment, be sure to let them know what your plans are. For example, one author had done a clinic project with a group, and so she wrote to the other students to ask whether they would mind if she wrote something on the topic, and whether they wanted to co-author.

## **VI. Navigating Concerns About Privileged and Confidential Information**

Transforming summer or clinical work into a Note or Comment can sometimes implicate privilege or confidentiality concerns. Speak with your supervisor before moving forward with the project to understand what is and isn't permissible. Seek permission from the relevant professor, organization or workplace to use any potentially privileged or confidential content in your Note or Comment. You may need to have someone review the draft prior to submission in order to make sure that any potential privilege or confidentiality concerns are addressed.

## **VII. General Tips & Tricks**

Finally, we asked authors for general tips and tricks to writing a Note or Comment. What advice did they wish they had gotten, and what did they most want to impart to you? Here's what they had to say:

### **Identifying a Topic and Getting Started**

- Even if the idea is just a tangential footnote in a project you've been working on, think about expanding it into a student piece. It doesn't have to be (and probably shouldn't be!) fully formed in your mind in order for you to start working on it.

- At your summer job, listen carefully during staff meetings, or to conversations over lunch. If people say something that you've never thought about before, consider writing it up.
- Look out for times when you think: "That doesn't make sense!" Those are the topics and questions to follow up on.
- If you're doing a project for a client and feel constrained by the existing law, such that you have to make arguments that feel unsatisfying, you might write a piece criticizing the state of the law and proposing a new approach.
- Keep your eyes open for interesting arguments or things that occur to you during clinical work, because some of the arguments that you wish you could make—but that seem just a little too out there—could turn into a great piece. And you might help move the law!
- Don't be afraid to ask and answer a practical question. You don't need to create a new theory of habeas to get something published. Many of the most effective pieces of student scholarship answer bite-sized questions well, rather than trying to do too much.
- Students do especially well by focusing on things that are developing in the law. If there's a pending case of interest where the law is unsettled, follow it and ask whether it was rightly or wrongly decided, and why.
- Look for legal puzzles that come up in unexpected places.

### Getting Support

- Try to get academic credit; it'll help keep you motivated and accountable.
- It's really helpful to have an NDE, CDE, or classmate read the piece before you submit.
- Get an NDE or CDE; they'll help you decipher the R&R. Be assertive in asking questions about your piece specifically and about what *YLJ* looks for generally.

### Going for It!

- *Do a serious preemption check* at the beginning. It'll justify your interest, give you sources for research, and save you from potential heartbreak.
- Try working on it for a couple of hours each day; it doesn't have to come in one fell swoop.
- Be persistent. Don't be deterred by an R&R!
- People who aren't traditionally academically successful, or interested in that sort of success, can absolutely write something interesting and valuable; don't count yourself out.
- Don't discount the value of your work just because it doesn't seem similar to what's already been published.

## Appendix: Recent Examples of YLJ Student Scholarship

### Clinical Work

Josh Bendor & Miles Farmer, Note, *Curing the Blind Spot in Administrative Law: A Federal Common Law Framework for State Agencies Implementing Cooperative Federalism Statutes* ([link](#))

Jess Marsden, Note, *Domestic Violence Asylum After Matter of L-R* ([link](#))

Sally Pei, Comment, *Unveiling Inequality: Burqa Bans and Nondiscrimination Jurisprudence at the European Court of Human Rights* ([link](#))

Rebecca Izzo, Comment, *In Need of Correction: How the Army Board for Correction of Military Records Is Failing Veterans with PTSD* ([link](#))

Dave Keenan & Tina Thomas, Note, *An Offense-Severity Model for Stop-and-Frisks* ([link](#))

### RA Work

James Dawson, Comment, *Contract After Concepcion: Some Lessons from the State Courts* ([link](#))

Brantley Webb, Note, *How To Review State Court Determinations of State Law Antecedent to Federal Rights* ([link](#))

### Summer Work

Daniel Herz-Roiphe, Comment, *Innocent Abroad? Morrison, Vilar, and the Extraterritorial Application of the Exchange Act* ([link](#))

David Perez, Note, *Deal or No Deal? Remediating Ineffective Assistance of Counsel During Plea Bargaining* ([link](#))

Adrien Weibgen, Note, *Right to Be Rescued* (forthcoming)

Doug Lieb, Comment, *Can Section 1983 Help to Prevent the Execution of Mentally Retarded Prisoners?* ([link](#))

Jon Choi, Note, *Early Release in International Criminal Law* ([link](#))

Molly Weston, Comment, *One Person, No Vote: Staggered Elections, Redistricting, and Disenfranchisement* ([link](#))

Adam Chandler, Comment, *Puerto Rico's Eleventh Amendment Status Anxiety* ([link](#))

Stephen Gilstrap, Comment, *Shifting the Burden in Software Licensing Agreements* ([link](#))

Ryan Thoreson, Comment, *Putting Children's Rights Back Into Child-Protective Laws: Rethinking Homosexual Propaganda Bans In Human Rights Law* (forthcoming)