HARVARD LAW REVIEW

WRITING COMPETITION
INTRODUCTION AND TIPS

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April 9, 2019

Dear Student,

Welcome to the kickoff of the 2019 Law Review writing competition! The attached tips packet is designed to provide some specific guidance about approaching the case comment and subcite portions of the competition. Together with the two tips presentations, we hope these materials give you a better idea of what the competition and the Law Review are all about.

The following materials are included in this packet:

I. WRITING COMPETITION HONOR CODE

II. CASE COMMENT INFORMATION
   A. An overview of the competition case comment and tips for writing a successful one
   B. A suggested format for writing your case comment
   C. Sample theses from various published Law Review student case comments

III. SUBCITE INFORMATION
   A. An overview of the competition subcite
   B. Tips on completing the subcite portion
   C. A list of typical subcite errors

IV. WRITING COMPETITION LOGISTICS

V. INFORMATION ON RECEIVING COMPETITION MATERIALS OFF CAMPUS

In addition, we recommend you review the sample materials, which include full sample case comments and sample completed subcite materials, at harvardlawreview.org/about.

We hope that you find this information helpful. If you have any questions at all, please feel free to get in touch with Chloe Cotton (ccotton@jd20.law.harvard.edu), or simply call the Law Review at (617) 495-7889.

Sincerely yours,

Lauren Beck  
President, Vol. 133

Chloe Cotton  
Outreach Chair, Vol. 133

Tianhao He  
Vice President, Vol. 133
THE WRITING COMPETITION HONOR CODE
(The competition packet will contain more details.)

1. Your entry must reflect your work only. **You may not consult or collaborate with anyone in any way regarding any part of the writing competition.** The Law Review takes very seriously allegations of student dishonesty. Inappropriate conduct will be reported to the Administrative Board of the Law School, which will consider the issue a matter of academic misconduct. Students have been expelled for misconduct on the competition. Information regarding improprieties should be reported immediately by calling the Law Review.

2. All entries are graded anonymously under a double-blind system. We have taken every precaution to ensure that no grader will learn your identity. **Do not put your name or other identifying information on any of the entry materials, except where you are specifically requested to do so.**

3. **Do not distribute or share competition materials with anyone.** Each packet is individualized and can be traced back to you. If the Law Review determines that competition materials have been shared, scanned, or otherwise distributed, we will consider it a matter of academic dishonesty. Your entry will be disqualified and your conduct referred to the Law School. Academic misconduct will affect your eligibility for admission to the bar.

4. You may **NOT** type, scan, or otherwise enter the subcite text or footnotes, or any other competition materials (including the case comment materials), into a computer or other digital form. Any entrant who violates this rule will be disqualified from the competition.

5. You may **NOT** conduct outside research for any part of the competition. **Use of any materials outside of the packet — including Lexis, Westlaw, or blog postings — is strictly prohibited.** Thus, you may not do any outside research of any kind, including general background reading, and you may not refer to any other materials that you own or to which you may have access. This includes your first-year course texts and notes. Citing or referring to authorities outside the competition packet is **strictly prohibited** and will result in disqualification from the competition.

6. You may **NOT** use the online Bluebook website or cite to Bluebook rules that are not included in the competition packet.
THE LAW REVIEW CASE COMMENT
(60% of total competition score)

The case comment is a distinctive genre of legal writing. With this in mind, please review the attached materials for guidance on how to construct a case comment for the writing competition.

The Case Comment Suggested Format included here offers a template for designing your own case comment. Although there is no one form that comprises the perfect case comment, you should seriously consider this guidance as you begin your writing.

In particular, this information should be helpful as you construct the first half of your case comment — the reporting section, in which you will discuss the facts of the case and what the courts have said. The case for your competition may be from either a U.S. Court of Appeals or a state supreme court. Because the structure of a case comment differs slightly depending upon which level of court decided the case, pay particular attention to these differences as they are described in the following pages.

The second half of the case comment — the argument section — permits more creativity, though, again, the guidance offered in this memo should give you a good idea about the parameters of a strong argument section. The provided sample theses are meant to represent a range of the types of arguments a case comment might make. Also included in this packet is a page of general tips for approaching the task.

In order to get a better sense of the distinctive form that case comments take, it may be worthwhile to skim a few of the full-length case comments (“Leading Cases”) in the November 2015 Harvard Law Review, which is available at harvardlawreview.org/issues/the-supreme-court-2014-term/.

A more extensive online packet (harvardlawreview.org/about/) includes two sample competition case comments as well as the case comment later published by the Law Review on the same topic. As may be clear, the quality of a successful competition case comment is not like that of a piece ultimately published in the Review. Published work has been through multiple rounds of intensive editing. You should not feel that the competition requires anything approaching a publication-quality submission.
**GENERAL CASE COMMENT TIPS**

**Formal and Stylistic Tips**
- Most successful case comments adhere roughly to the suggested case comment format. **Leave originality for the substance of your argument** rather than the format of the piece.
- **DO NOT exceed the allowed number of lines.** If you do, you will be penalized severely. Double-check that you are using the right font size (measured in characters per line), as designated by the rules that will accompany the competition materials.
- Write clear, declarative sentences. Use active voice. Most published case comments do not use elaborate literary flair. **Most readers look for a straightforward argument, not soaring prose.**

**Substantive Tips**
- **Do not neglect the facts in your argument section.** Show why the court’s principles apply, or fail to apply, to these facts.
- **Do not shortchange the reporting section of the comment.** It is a precondition to a compelling argument. While you should attempt to cover all of the main issues in the opinion, it may not be necessary to devote the same amount of discussion to each factual issue. Similarly, although you should give every opinion the importance that you feel it is due, you need not spend the same amount of space discussing each opinion in each case (especially for concurring and dissenting opinions).
- **Confine your discussion to the doctrine and you will not go wrong.** Be sure to have the cases before you at all times. Anchor yourself to the black-letter law.
- **The most powerful case comments are often internal critiques.** Published Law Review case comments most frequently argue within a limited scope. For example, a comment might argue that the court’s conclusion does not follow from its premises, that the premises are at war with one another, or that the opinion failed to recognize certain implications.
- **Make sure that your argument relates back to the case** instead of commenting solely on the doctrinal issues raised by the case. It is, after all, a case comment.

**Tips for Forming an Argument**
- **Try to choose an approach early on and then selectively read the materials.** Skim the materials provided in order to get a sense of the themes that the case addresses.
- **Try arranging precedents chronologically or thematically.** You may discover interesting cross-currents.
- **Focus on making a clear, succinct, and manageably sized argument.** Considering the margins, font, and the fact that roughly half of your piece will be footnotes, the actual writing is quite short. With half of the text a description of the facts and opinions, your argument section will be quite brief.
- **We do not expect you to be familiar with the issues raised in the case.** One of the skills tested by the case comment is the ability to consider legal issues with which you have had little experience. Scan the sources for helpful introductory and background material.
- **A less ambitious but well supported argument is better than an ambitious but poorly supported argument.** The goal of the case comment is to clarify the legal issues. Don’t feel pressure to contribute to the advancement of legal scholarship. You will not be able to rewrite an area of the law with only a few days and very limited sources. As you develop your argument, review whether each step of it is supported and follows logically from the previous step. An outline and topic sentences can help develop the flow of your argument section.
<table>
<thead>
<tr>
<th></th>
<th>STATE SUPREME COURT CASE</th>
<th>U.S. COURT OF APPEALS CASE</th>
</tr>
</thead>
<tbody>
<tr>
<td>¶ 1</td>
<td>Write a few sentences of background to the case and your argument.</td>
<td>Then write: “Recently, in [insert case name], the [state name] Supreme Court [insert holding].”</td>
</tr>
<tr>
<td>Then write: “Recently, in [insert case name], the [state name] Supreme Court [insert holding].”</td>
<td>Then write: “Recently, in [insert case name], the [insert circuit number] Circuit [insert holding].”</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Finally, state your thesis succinctly.</td>
<td></td>
</tr>
<tr>
<td>¶ 2</td>
<td>Set out the facts of the case, from the beginning.</td>
<td>Describe the procedural posture in the trial court or, if there is no trial court opinion, state the legal issue.</td>
</tr>
<tr>
<td>¶ 3</td>
<td>Describe the procedural posture in the trial court or, if there is no trial court opinion, state the legal issue.</td>
<td>Describe the procedural posture in the trial court and explain the trial court’s reasoning.</td>
</tr>
<tr>
<td>¶ 4</td>
<td>Consider the procedural posture in the inferior appellate courts. If there is a relevant dissent, mention it (maybe in a footnote).</td>
<td>Begin discussing the Appeals court opinion. The first sentence should read: “The [insert circuit number] Circuit [insert “affirmed,” “reversed,” “vacated,” etc.].” The second sentence should read: “Writing for the panel, Judge [insert opinion author’s name] . . . .”</td>
</tr>
<tr>
<td>¶ 5</td>
<td>Begin discussing the Supreme Court opinion. The first sentence should read: “The [state name] Supreme Court [insert “affirmed,” “reversed,” “vacated.”] etc.” The second sentence should read: “Writing for the Court, Justice [insert opinion author’s name] . . . .”</td>
<td>Continue giving an account of the opinion.</td>
</tr>
<tr>
<td>¶ 6 through ¶ 8</td>
<td>Continue discussing opinion; describe each concurring and dissenting opinion in a separate paragraph.</td>
<td>Describe each concurring and dissenting opinion in a separate paragraph.</td>
</tr>
<tr>
<td>¶ 9</td>
<td>State your thesis. There are several standard approaches editors have taken in the past, including: (a) good reasoning, unclear conclusion; (b) bad reasoning, bad conclusion; (c) good reasoning, bad conclusion; (d) bad reasoning, good conclusion; (e) good reasoning, but missed policy implication X; (f) bad reasoning that may lead to bad outcome Y, etc. You should choose any argument that you find interesting and that allows you to perform a thoughtful, engaging analysis, but make sure to choose a thesis that is about the case, not just general doctrinal or policy issues that are brought up in the case. Try to think creatively, while recognizing the realities of your time and length limitations. (Remember to look at the November issue for a better sense of the variety of possible arguments.)</td>
<td></td>
</tr>
<tr>
<td>¶ 10 through the end</td>
<td>Flesh out your argument, drawing upon cases and source materials. For the final paragraph, create some form of a conclusion.</td>
<td></td>
</tr>
</tbody>
</table>
SAMPLE CASE COMMENT THESIS STATEMENTS

“The Court’s dicta indicated that the answer to that question might be very different in the personal income tax realm than it is with regard to corporate income taxes, creating uncertainty about what states must do to ‘fairly apportion’ personal income.”

- 129 Harv. L. Rev. 181

“[T]he Court’s less-than-satisfying consideration of the role of consent in the separation of powers calculus will likely limit the applicability of the decision outside the Article III context.”

- 129 Harv. L. Rev. 201

“[T]he decision reveals a misalignment between the test the Court applies to identify government speech and the purported rationale for the doctrine.”

- 129 Harv. L. Rev. 221

“[The] Court added to the confusion around the facial versus as-applied forms of judicial review and potentially opened the door to a new generation of facial Fourth Amendment challenges with insufficient guidance to legislatures, courts, and litigants on the proper standard for such challenges.”

- 129 Harv. L. Rev. 241

“Mindful that an open-ended ‘reasonableness’ test might sow confusion — or worse, abuse — both the majority and concurrence sought to cabin the reasonable-mistake-of-law test with additional qualifiers. Such qualifiers allay some but not all concerns over what the Heien test means for judicial administrability and police discretion.”

- 129 Harv. L. Rev. 251

“After Glossip, lower courts may have difficulty justifying a flexible approach to the success-on-the-merits prong of the preliminary injunction test.”

- 129 Harv. L. Rev. 271

“[T]he Court’s decision will require lower courts to police redistricting plans more carefully. This development, however, pales in comparison to the great harm to voting rights in the South resulting from Shelby County and from the difficulty in separating race- and party-based motivations in policing gerrymandering.”

- 129 Harv. L. Rev. 281
THE SUBCITE PORTION OF THE COMPETITION
(40% of total competition score)

The basic task of a subcite is to identify and correct both technical and substantive errors in a written piece. As part of the competition, you will receive a portion of text suffering from such errors. You will create a series of comments to the author of the piece, suggesting corrections.

During the competition, checking the source materials will be essential. Finding valid and accurately characterized support for each assertion is a major part of a subcite.

In addition to editing for general substantive and technical quality, you will also be asked to apply a small subset of basic Bluebook rules and internal Law Review style guidelines. These will all be provided in the competition materials. Keep in mind, however, that the purpose of the subcite is to measure overall editing quality and attention to detail, not mastery of the Bluebook. You are not responsible for Bluebook rules that are not included in the actual competition materials.

This packet contains a non-exhaustive list of the types of errors that may appear in the subcite and the point values awarded for correcting these errors. Please remember that to receive credit for a correction you must not only

1) identify an error, but also
2) briefly explain why it is an error and
3) offer a correction of the error.

We suggest reviewing the examples included in the online packet (harvardlawreview.org/about) to get a sense of the level of detail that is appropriate. An effective suggested correction should 1) identify the error, 2) explain by pointing to a particular quotation from the text or a particular style or citation rule, and 3) offer a suggested correction in polite language, set off by angle brackets (< . . . >). The exact text to be replaced should be boxed. A heading, given in ALL CAPS, should denote the type of error.

For example, if a cited source reads:

“In 1920, the Court decided a key case.”

The following corrections would be appropriate:

A key development in this areas came in 1921. “The Court decided a key case.”

AGREEMENT: The noun is plural. Please consider <these>.

SUBSTANTIVE: The case discussed was decided in 1920. Please consider <1920>.

QUOTATION: The first word is not capitalized in the source. Please consider <“T]he>.
GENERAL SUBCITE TIPS

- **Before doing anything else, make multiple photocopies of the subcite text.** How many copies you make will depend on your work style, but about ten copies is typical. Be sure to reserve at least two clean copies for printing your final answers (in case you experience a printing mistake).

- **When choosing where you will take the competition, remember that you will need access to a printer for preparing your final answers.**

- **Carefully read the instructions for how final answers are to be prepared.** Your final answers will need to be typed and then printed or attached onto a copy of the subcite text. The subcite text may not be scanned or made digital in any form.

- **Be sure to leave yourself ample time to print and box your comments.** The process of drawing boxes and lines will take several hours and will need to be completed before you can make the final copies of your subcite answers; do not underestimate how long this step will take. Handwritten comments will receive at most half credit.

- **Review the list of typical subcite errors in this packet.** Remember that some of the errors will be substantive; to find them, you will need to check that the statement in the text is supported by the source it cites.

- **There are approximately five to fifteen errors per page.**

- **You will not need to know any Bluebook rules beyond what is included** in the competition packet itself. Bluebook rules and internal style guidelines included in the competition may be different from those that have appeared in previous years.

- **Make sure that you do not only identify errors but also suggest fixes,** even for simple misspellings. To avoid any confusion about quotation marks, set off your suggested fix with <angle brackets>.

- **You must also label the general error type** before identifying the specific error.

- **Draw boxes around the exact text to be replaced.** For example, if a punctuation mark or accompanying word is boxed, it should also be included in your <suggested correction>.

- **We encourage you to identify only clear errors rather than points of style.** If you find yourself consistently flagging errors without being certain whether the error was “clear,” you may be over-editing. Excessive editing may be penalized, but only in egregious cases.

- **Applicants who adopt an actively rude or offensive tone will be penalized.** A small number of additional points are possible for thorough and polite comments.

- **In the subcite text you are given, text that would be in SMALL CAPS in print (such as journal names and book titles) will be bold and text that would be in italics in print (such as article titles and textual references to case names) will be underlined.** Your suggested corrections should follow the adjusted typeface.
TYPICAL SUBCITE ERRORS AND POINT VALUES

Note: This list is non-exhaustive.

1-POINT ERRORS

1. SPELLING
2. WORD CHOICE
3. COLLOQUIALISM (e.g., “dude,” “they suck”)
4. SINGULAR/PLURAL
5. SUBJECT/VERB AGREEMENT
6. THAT/WHICH
7. REDUNDANCY (simple)
8. PARALLELISM
9. PUNCTUATION (incorrect or missing)

10. QUOTATION
11. SPLIT INFINITIVE
12. TYPEFACE
13. CAPITALIZATION (incorrect or missing)
14. SPACING (missing space or too many spaces)
15. CROSS-REFERENCE (e.g., incorrect use of supra or infra)
16. CITATION FORM

17. BLUEBOOK (simple Bluebook form error; provide a reference to the rule number)
18. SUBSTANCE (simple error, e.g., wrong court, judge, disposition, year)
19. SENTENCE FRAGMENT/RUN-ON
20. VERB TENSE
21. ABBREVIATION/ACRONYM

2-POINT ERRORS

1. LOGIC (simple error, e.g., incorrect use of words such as additionally, however, furthermore, nevertheless, thus)
2. REDUNDANCY
3. SUBSTANCE
4. HEADING (e.g., incorrect or misplaced section headings)

5. SUPPORT (statement lacks support or quotation needs citation; provide support from included materials)
6. DANGLING MODIFIER
7. PINCITE (provide proper page number from supporting material)
8. BLUEBOOK (complex Bluebook form error; provide a reference to the rule number)

9. CHARACTERIZATION (misstatement of source content)
10. SIGNAL ([no signal] if quotation or direct support; see if inferential step needed between source and statement; see, e.g., if one of several directly supporting authorities; cf. if support by analogy; but see if directly opposing source; but cf. if opposing analogy)

3- AND 4-POINT ERRORS

1. SENTENCE PLACEMENT
2. PARAGRAPH PLACEMENT
3. (Other structural error)

4. SUBSTANCE (difficult substantive error, e.g., subtle misconstruing of source or case; grossly conclusory claim)
5. LOGIC (subtle error, e.g., conclusion does not follow from premises)

6. REDUNDANCY (subtle, e.g., virtually consecutive sentences saying virtually the same thing)
7. CHARACTERIZATION (subtle misconstruing of source content)
Writing Competition Logistics

The 2019 writing competition will begin on **Saturday, May 18**. You will be able to pick up the competition in Hauser 103 between **10 AM and noon**. There is no need to sign up in advance; plenty of copies of the competition will be available.

Your entry must be returned on **Saturday, May 25**. You can either return your competition in person to Hauser 103 between **10 AM and noon**, or you can return it by mail. Before you return your entry, you will need to make several copies of both your case comment and your final subcite answer, as will be described in the competition instructions. **Make sure you look up a local copy shop’s weekend hours ahead of time and plan accordingly.** Copy shops in the vicinity of HLS may be very congested with other competition-takers on Saturday morning, so allow yourself plenty of extra time. Entries that are returned late will be substantially penalized.

Additional information on how to return the competition by mail will be included in the competition instructions. If mailing, your entry must be postmarked **no later than 11:59 AM on May 25, 2019**. Given that your post office’s Saturday hours may be limited, **please ensure that you check your post office’s Saturday hours ahead of time; you should have an advance plan for returning your entry on time.**

If you are going to be off campus on May 18, please visit the URL included on the last page of this packet to fill out an online form requesting that the competition materials be shipped to you. You must fill out this form by **Friday, May 10**. If you need international shipping, please contact Jennifer Heath (lawrev@law.harvard.edu) for more information.

If you find the cost of making copies for the competition to be a hardship, the Law Review will reimburse costs incurred in making copies for the 2019 competition up to $50. You are encouraged to complete the form you will receive in your competition materials, attach your receipts, and mail it to the Harvard Law Review by **Friday, May 31**. To ensure confidentiality, this reimbursement process will occur separately from the competition; only permanent Law Review finance staff will see the form and your reimbursement check.

If you live in the dorms, you may request a housing extension to allow you to stay in your room through the end of the competition (with a move-out date of Saturday, May 25). You can request an extension online at [https://harvard.az1.qualtrics.com/jfe/form/SV_cZnO9u1QY6MyjOJ](https://harvard.az1.qualtrics.com/jfe/form/SV_cZnO9u1QY6MyjOJ). The deadline to apply is **5 PM on Friday, May 3**. If you have any questions, please contact the Housing Office at housing@law.harvard.edu or (617) 495-1880.

All participants will be notified of the competition results by late July, and Orientation for new editors will begin on **Wednesday, July 31**.

If you have any questions at all, please do not hesitate to reach out to Coordinating & Outreach Chair Chloe Cotton at ccotton@jd20.law.harvard.edu.
INFORMATION ON RECEIVING COMPETITION MATERIALS OFF CAMPUS

If you would like to take the competition, but plan to leave campus before the competition is distributed on Saturday, May 18, you may request that the competition materials be shipped to you via Federal Express. The cost for mailing the materials is $45.

In order to have the competition mailed to you, you must complete an online request form by Friday, May 10. You can access the request form at:


Receiving your competition materials:

The package will be delivered by Federal Express and, if you are within the United States, you should receive it by 5:00 PM local time (that is, the time zone of delivery), on Saturday, May 18, 2019. Someone must be at the address to sign for the package. If you miss a delivery on Saturday, May 18, you should be prepared to travel to your local Federal Express office before the close of business that day to collect your competition materials. Because Federal Express does not ship on Sundays, if you do not collect your package by the close of business on Saturday, May 18, your package cannot be delivered until Monday, May 20. Therefore, it is in your best interest to ensure that you are available to accept delivery on Saturday, May 18. If you need to request an international shipment, please contact Jennifer Heath at lawrev@law.harvard.edu for further information.

You will receive tracking information when the Law Review ships your competition materials. Because applicants will not be granted extra time in the event of shipping problems, you must track your shipment until you have received your competition materials. In the event of shipping problems, or if your competition materials have not yet arrived by 3:00 PM on Saturday, May 18, you should follow up with Federal Express immediately.

When you receive the package, you should check it to ensure that all pages are included. Please call the Law Review at (617) 495-7889 if anything is missing.

Returning your completed competition entry:

If you return your competition entry by mail, it must be mailed by U.S. Postal Service Priority Mail Express and postmarked no later than 11:59 AM local time on Saturday, May 25. Please be certain to check your post office’s Saturday hours well in advance; many post offices close early on Saturday, and late entries are strictly penalized. Call your local post office to make sure that packages shipped Priority Mail Express on Saturday, May 25 will be delivered to Cambridge on Tuesday, May 28 (Monday is Memorial Day). You must also call the Law Review after you have mailed your entry to notify us that your entry is in the mail. The competition package will contain complete instructions for submitting your entry by mail.