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## Evaluating an Applicant's Writing Ability

A writing sample can provide a window into a job candidate's skills

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**T**he job interview is a notoriously unreliable predictor of an associate's ability to function effectively in a law firm. The firm can bridge a portion of that gap with the insight provided by a writing sample. Writing is, after all, something lawyers do often.

Below is a list of questions to help reviewers evaluate writing samples. For writers, it is a guide with which to measure their own work.

1. Does the writer engage you quickly?

2. Is the writing forceful and direct, exuding confidence, or does it stumble along? Does the writer appear to be in command?

3. Is the writing lean or verbose? Do the words grip, or do they get in the way?

4. Do you understand the message?

5. For briefs, and to a lesser extent for memos, is the writer an effective advocate? For example, does the writer:

- Hit hard and early with good facts?
- Present good law without stretching?
- Distinguish bad law on material grounds?

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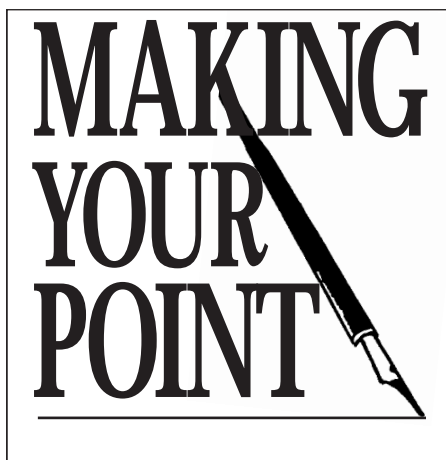
• Confront difficult issues head-on?

• Use repetition and internal summary to reinforce points?

• Choose words with precision, sensitive to their connotations?

• Provide back-up for each assertion by way of supportive facts, legal citations or deductive reasoning?

6. Does the writer know how to



sum up?

7. Is the writing organized, section by section and paragraph by paragraph?

8. Does each paragraph have a tight logical progression, or does the sentence order seem to be "b, e, d, c, a"?

9. Does the writer show the courage and ability to state a point rather than just suggest it? Are the topic sentences forceful?

10. Is word position used to achieve emphasis? For example, are important words given prominence at the ends of sentences?

11. Are the case discussions crisp and to the point, or are they long-winded, full of marginally relevant facts and findings?

12. Does the writer seem attuned to concerns of fairness, justice and public policy, or does the writer merely invoke stare decisis?

13. Does the writer maintain flow and aid comprehension by the deft use of transitions, grouping, internal summaries and parallel construction?

14. Or does the writer frustrate you, insult your intelligence, and ultimately lose your attention with verbosity, ambiguity, illogic, undefined terms of art, interruptive phrasing, gratuitous footnotes, typos, misspellings, bad punctuation, dangling modifiers, non-agreement of subject and verb, exaggerations such as "clearly," "obviously" and "simply," editorials such as "astonishingly" and "incredibly," and the unrelenting drone of "there is" and "there are"?

15. Does the writer apply the tactics of brief writing, including (but not limited to):

- Introducing quotations rather than forcing the reader to read them cold?
- Using underlining within quotations to highlight what is favorable?
- Including rationales in point headings so the table of contents will function as an argument?
- Providing explanatory parentheticals after case citations?

16. Does the writing suffer from usage problems, especially the annoying ones, such as:

- Improper use of which and that?
- Using as for because?
- Using while for although?
- Using due to for because of?

17. Do the citations follow Blue Book form or at least remain consistent within themselves?

18. Notwithstanding flaws in the writing, does the writer get the job done? In other words, is the writing effective?

19. Did the writer think the problem through?

20. Would you like to have this person writing for you?

21. Does the writing appear to meet your firm's standards at this person's level?

22. Does the writer appear to have what it takes to write for your firm without undue training or attention?

23. How confident are you that the writing sample is representative of

this applicant's skills?

Like any evaluative process, especially truncated ones, writing sample evaluation is imperfect. If the sample is strong, the analysis may have been performed on a closed universe of facts and law, as in a moot court exercise, or the writer may have had help. If the sample is weak, the writer may have potential that hasn't matured.

When a writing sample is flawed, I look amid the clutter for a willingness to confront the tough issues. A lawyer with the courage and self-honesty to battle an opponent's strength is halfway there. I also look for a knack for discussing the facts because persuasion ultimately lies in the facts. These signs give me hope that the writer has a feel for what lawyers do.

Above all, I look for clarity and logic. If the writer seems to have the talent and instinct for that, everything else may fall into place. As they say in

basketball, "You can't teach height." The analogy isn't perfect, but some things are more easily fixed than others.

### **Puzzler**

Which is better, Version A or Version B?

**Version A:** Work hard to assure success.

**Version B:** Work hard to ensure success.

To ensure is to make secure or certain. To assure is to impart confidence and relieve doubt, but it can also mean to guarantee, make certain. To ensure success, you must work hard. To assure your boss that you will succeed, you must work hard. The words overlap in meaning and are often confused. Version B is better because ensure does not have competing connotations. ■