



The Yale Law Journal

Common Suggestions for Notes and Comments

These suggestions are meant to provide a sense of points that are commonly raised by the Notes & Comments Committee in Feedback Letters and during the editing process. Of course, these suggestions will apply to different individual pieces of student scholarship to varying degrees. However, we hope that they will be useful to those submitting, resubmitting, or editing their Notes or Comments.

1. Condense descriptive material and focus on your core arguments.

Descriptive material is often helpful in producing work for class since one of the goals of writing in these settings is to demonstrate broad knowledge of the field. However, Notes and Comments are meant to be a forum for original student research. Therefore, condense descriptive material (for example, case law or historical background) so that it is limited to the material necessary to support your core arguments. If the descriptive material precedes your core arguments, then foreshadow your own arguments before presenting the descriptive material and try to arrive at your central claims as soon as you have provided sufficient background to bolster your own ideas. Limiting descriptive material can also help you to meet the word limit.

2. Make a normative claim.

In keeping with the previous suggestion, try to frame your piece in such a way that you make a normative claim—that is, a claim about what “should be” the case. Your normative claim need not be a specific prescription for legislation or litigation (though it could be); rather, your normative claim could be an argument to the effect that we should view an issue in a different way, or that we should take a perspective that has not previously been taken. The overall point is that you should want something to change after people read your Note or Comment—whether our legal arguments or our understanding of an issue—and you should tell the Committee what that desired change is.

3. Emphasize the stakes of your topic and your argument.

Each Note or Comment should be able to answer the “so what?” question: why should readers care about this issue and your approach to it? This response may require greater elaboration for pieces focused on more specialized fields of research, but every Note or Comment should address this issue. Towards the beginning of the piece, you should draw out the implications of your argument for the development of the law or for a body of scholarship, and help the reader see what would change if your approach were accepted. If your piece is on a more specialized area, then you should try to connect your conclusions to broader aspects of the law or ideas with which readers may be more familiar.

4. Explain your original contribution and how it differs from existing scholarship.

Originality is an important element of Notes and Comments (we conduct preemption checks of each piece prior to acceptance), and we encourage you to explain the ways in which your piece is original. The Statement of Originality is often the first part of a piece that *YLJ* editors read, and you should spend time in this statement detailing the original aspects of your piece. However, you should also use part of the body of the Note or Comment—usually in the Introduction—to make a case for the piece’s originality, and you should, as appropriate, differentiate your arguments from other authors’ works at other junctures in the paper. Please note that not all aspects of your Note or Comment need to be original; the key is simply to be as clear as possible about the nature of your piece’s contribution to the literature.

5. Clearly state your arguments and the logical structure of your piece at the outset.

It is enormously helpful to preview your arguments and your support for these arguments at the beginning of the piece. You should also refer to the roadmap at various junctures throughout the Note or Comment, so that the reader knows where you are. More generally, try to be very clear about what you are claiming and how you are supporting your specific claims.

6. Present and engage with counterarguments.

Some of the strongest Notes and Comments are the pieces that take the “other side” seriously and reply convincingly to objections. Don’t worry about “revealing” a weakness in your argument; the chances are that the Committee may raise this weakness itself, and if you feel you cannot respond adequately to an objection, then you are better off moderating your argument or delineating the scope of your claims more narrowly. In addition, you should avoid responding to counterarguments in a perfunctory or dismissive way; instead, you should wrestle with them and try to show why, all things considered, your approach remains superior. Common counterarguments include: a view is internally inconsistent; not enough evidence exists to support a claim; a proposal would encounter significant difficulties if put into practice; an idea does not adequately consider a relevant value (say, fairness or efficiency).

7. Respond to every point in your Feedback Letter (if only to explain why you are not making revisions).

If you are resubmitting a Note or Comment, then we encourage you to detail your responses to the previous Feedback Letter in the resubmission memo. You need not, of course, accept every point in the Feedback Letter, but you should explain why you do not believe that the piece warrants revision with regard to the points that you do not accept.