

Revising Revision in the Classroom

By Karen J. Sneddon

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While I love to converse with students, I dread when Alison Achiever sulks into my office after the first graded assignment and, with a choke in her voice, mutters, “I’m an English major, and I’ve always gotten As on my papers.” Needless to say, Alison did not earn an A on her first assignment. Despite her initial consternation over her grade, Alison is really asking how to improve her writing skills from what has worked in the past. To do that, she must learn not how to write, but how to revise.

In the age of computer composition, most students, like Alison, have little experience with revision. Students’ prior writing experiences rely heavily on the creativity and quality of the students’ ideas. As such, students have found success with the stream-of-consciousness process of writing, which generally consists of great ideas that are developed in the writing process in an unorganized document riddled with proofreading and mechanical errors. In contrast, the organization of legal writing is geared to the reader. A novice legal writer cannot simply write a well-reasoned, coherent document from start to finish in one sitting. Emphasis on revision in the legal writing classroom reinforces the concept that writing is a process; and, of course, it is a process that cannot be completed the night before an assignment is due . . . or at least not anymore!

The revision process stresses the importance of organization, clarity, style, citation, grammar, and proofreading. Students should revise drafts before submitting them and be able to revise a document based on comments received from the professor or an employer. While the importance of revision in the writing process may be recognized, many students are unsure how to revise. When confronted with a document that has been

reviewed and marked by a professor, many students mechanically input the professor’s comments.

Peer review can be an invaluable tool for incorporating revision into the classroom.¹ However, integrating peer review into the legal writing classroom can be tricky. When I first announced a peer review, a mask of consternation descended over the faces of my students. Cacophonous chaos erupted as sighs reverberated against the classroom walls. Even distributing more detailed guidelines did nothing to quell the students’ frustrations and misgivings about peer review.²

Often students are apprehensive about sharing their work with other students. Students are competing against their fellow students academically and may be wary of sharing their carefully crafted ideas. Students may also be embarrassed to share their work because of their perceived inadequate work, or they may be reluctant to use peer review if they have had prior peer review experiences that yielded inconsistent quality comments.

Notwithstanding the students’ trepidations, peer review can also be difficult for the professor to incorporate successfully into the classroom. With novice learners, the peer review process can be difficult because students do not have a solid grasp of the principles of legal writing. They are simply

¹ There is a wonderful depth of articles about the use of peer review. See, e.g., Kirsten K. Davis, *Designing and Using Peer Review in a First-Year Legal Research and Writing Course*, 9 *Legal Writing* 1 (2003). Peer review was the subject of a presentation at the most recent Legal Writing Institute Conference. Steve Berenson and Linda Berger presented *Leaping from the Peer: Peer Reading and Writing Groups in Action* at the 2006 LWI Conference in Atlanta, GA, on June 10, 2006.

² A great article discussing self-editing, including sample guidelines, is Mary Beth Beazley, *The Self-Graded Draft: Teaching Students to Revise Using Guided Self-Critique*, 3 *Legal Writing* 175 (1997). The guidelines can be used as peer review guidelines too.

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unsure as to what is good writing and what is poor writing. In addition, peer review can be unwieldy to monitor; everyone's paper is different. As such, most class discussion veers toward generalities or gets mired in the idiosyncrasies of an individual student's work.

I devised an exercise (one of which is included at the end of this article) to combat these concerns while still incorporating revision into the classroom. I created a single writing sample for the entire class to review and revise. This exercise is somewhat akin to exercises found in grammar books that ask students to determine whether the sentences are grammatically correct or not.

To create the exercise, I begin with an excerpt of a sample memo. The sample memo is either a model answer that I have prepared, a previous student written memo, or an example from a textbook. Depending on the professor's goals for the exercise, the excerpt can range from a one-paragraph exercise that is to be completed during class to a multiple-page exercise that is to be completed outside of class. While I typically use this exercise during instruction on objective writing, the exercise can be used during instruction on persuasive writing by using a sample trial or appellate brief.

After selecting an excerpt, I incorporate various types of mistakes into the excerpt. I strive to incorporate common student errors, which have appeared in the current set of papers. The errors on the exercise can range from basic spelling and citation errors to more complex organization and synthesis errors. Depending on the length of the excerpt, the sentences with errors can be numbered so that the students have direction as to which sentences to evaluate. From the professor's point of view, incorporating pet peeves into the exercise can alleviate the frustration of seeing the pet peeves continually crop up in assignments.

With every exercise, I am sure to create a separate sheet of professor comments for the exercise that contains the "answers." Then, I can be sure that I won't be stumped by a student question about the exercise!

The ideal time to introduce a revision assignment is after the students receive their first assignment on which the professor has provided written comments, whether graded or ungraded. I have found it effective to use the exercise when the students have received comments on an assignment and are in the process of completing a rewrite or final draft of the assignment. However, different incarnations of the exercise can be used in varying degrees throughout the semester. For example, the first use of the exercise may contain straightforward errors, such as proofreading errors. As the semester progresses and the students' skill level increases, the exercise can contain more complex errors, such as incorrect rule synthesis.

Just as with peer review, collaborative and cooperative learning is incorporated into the classroom by having the students discuss the exercise in groups of twos or threes in class. Since all the students are reviewing the same exercise, discussion is facilitated. The discussion can become very active as the students voice different suggestions for the revision.

Using the revision exercise not only models the revision process but also models construction and critical reading. The discussion about the revisions, both the need for the revision and possible versions of the revision, is uninhibited. The students are not tempering their critiques for fear of insulting a fellow student. The students' comments resemble a brainstorming session, much like they would use when revising their own work.

In conclusion, the revision process can be incorporated into the process without using peer review. Through the use of the exercise, students have a model as to how to approach revision. The end result is that the student develops a writing process that includes revision. And, hopefully, after Alison receives the grade on her next assignment, she will triumphantly soar into my office proclaiming the value of all that she has learned about revision.

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Revision Exercise—Professor Comments³

Review the following excerpts from a discussion section of an objective memorandum regarding adverse possession in Mississippi. For each numbered text sentence or citation sentence, identify the problem (or problems) and revise the sentence accordingly. You may need to read the section in its entirety to identify the problems. Problems may relate to analysis, structure, style, citation, or grammar.

To assert a claim of adverse possession, a possessor must establish by clear and convincing evidence that possession of the property was: (1) under claim of ownership; (2) actual or hostile; (3) open, notorious, and visible; (4) continuous and uninterrupted for a period of ten years; (5) exclusive; and (6) peaceful. [1] *West v. Brewer*, 579 So.2d 1261 (Miss. S. Ct. 1991). [According to BB R 6.1, the spacing of the reporter is incorrect. Should be So. (space) 2d. The citation is missing the pinpoint page 1262. According to BB T.1 (Mississippi), the Mississippi Supreme Court should be abbreviated as “Miss.”] The ten-year period is established by statute. Miss. Code Ann. § 15-1-13 (1998).

[2] Fourthly, possession must be continuous and uninterrupted for a period of 10 years. [Evaluate the strength of the topic sentence. Legalese should be avoided: “fourthly” should be “fourth.” According to BB R 6.2(a), numbers zero to ninety-nine should be spelled out.] *West*, 579 So. 2d at 1262. [3 – relates to next two text sentences] Courts in other jurisdictions have generally found that seasonal use is continuous and uninterrupted if the use is consistent with the nature and character of the property. See, e.g., *Kraus v. Mueller*, 107 N.W.2d 467, 472 (Wis. 1961). Sporadic or intermittent use fails to satisfy the “continuous” element. *Buford v. Logue*, 832 So. 2d 594, 603 (Miss. Ct. App. 2002).

³ My thanks to my former Tulane Law School colleague Andrew Clark for preparing the sample memorandum on which this exercise is based and to my former Tulane Law School colleague Tina Boudreaux for her comments and additions on this exercise.

[The order of sentences should be reversed. The rule from the controlling jurisdiction, Mississippi, should be presented first. Also, general rules should be provided before specific or qualifying rules are provided.]

[4] Where a possessor lives on the property for less than ten years, but uses the property as a garden and for storage for more than ten years, the Mississippi Court of Appeals holds that the use is not sporadic or intermittent. [This sentence is phrased like a rule statement rather than an in-text case illustration. For case illustrations, provide the court’s reasoning to give the court’s holding context. In addition, the verb tense is incorrect. The past tense should be used to describe the facts of a case and what a court did in a case.] [5] *Id.* at 603. [The period in *id.* must be underlined. The pinpoint should not be included in this cite, because *id.* refers to the directly preceding authority, which includes the pinpoint 603.] While Mississippi courts have not addressed whether seasonal use of property constitutes continuous and uninterrupted use, courts in other jurisdictions have generally found that seasonal use is continuous and uninterrupted if the use is consistent with the nature and character of the property. See, e.g., *Kraus*, 107 N.W.2d at 472 (finding that a hunting shack occupied only during hunting season on wooded property constituted continuous and uninterrupted possession). [6] The Vermont supreme court argued that continuous use “is not synonymous with constant use. [Capitalization of court is incorrect. It should be “Vermont Supreme Court” because the full names of courts are capitalized. There is also a word choice problem: courts decide, state, conclude, rule, and hold. Courts do not argue, feel, or believe. The close quotes are missing.] *Darling v. Ennis*, 415 A.2d 228, 230 (Vt. 1980). [7] Where the claimant used and improved a structure on property, continuous use could be established by considering how an average property owner would use it. [Inconsistent term use: the writer used “possessor” rather than “claimant” previously. The examination of the analogous case is missing some key facts about the case. What is the structure? (It was a hunting camp.) How often was the structure used? (It was used yearly.) What was the nature and condition of the property? (It was wooded.) Vague word choice problem: “it” should refer to “the property,” but sounds like “it” refers to “the structure.”]

Id. The nature and condition of the property must be considered. *Id.* Therefore, the yearly use of a hunting camp could establish continuous and uninterrupted use for the statutory period. *Id.* [8] See also *Charles L. Montgomery et al. v. W. Barry Branon*, 278 A.2d 744, 748 (Vt. 1971) (Since hunting camps are generally occupied only during certain periods of the year, such use may be considered continuous and uninterrupted if such use is consistent with the nature and character of the property.). [Evaluate use of signal “see also.” According to B4.4 and BB R 1.2, the signal “see also” indicates additional material that supports the proposition, which the citation does. According to BB R 1.2, the use of an explanatory parenthetical with the signal “see also” is encouraged. According to B11 and BB R 1.5, an explanatory parenthetical must be one of the following formats: (1) a phrase beginning with a present participle; (2) a quoted sentence; and (3) a short statement. The format of the explanatory parenthetical is incorrect and should be revised. A possible revision is “holding that the use of a hunting camp during certain periods of the year may be continuous and uninterrupted if such use is consistent with the nature and character of the property.” According to BB R 10.2.1(g), given names should be omitted from case names. The case name should be *Montgomery v. Branon.*]

[9] Grant must establish that his use of the property was continuous and uninterrupted for a period of ten years. [The transition to the rule application, such as “in the present case” is missing. The conclusion is not clearly stated. A possible revision is “Grant will be able to establish ...”]

[10] Yazoo Paper will argue that Grant’s use was not continuous because he did not occupy the settlement as a permanent residence and only used it twenty weekends a year. [The phrase “will argue” presents a problem. The better phrasing is “Yazoo Paper might argue” or “Yazoo Paper could argue.”]

[11] Not unlike the possessor in *Buford*, Mr. Grant did not live on the property. [Evaluate the analogy. A specific fact from *Buford* is missing so that the analogy is not explicit and obvious. The *Buford* citation is missing. A possible revision is “Like the possessor in *Buford*, 832 So. 2d at 603, who used the

property as a garden rather than a residence, Grant did not reside on the property year-round. Grant used the property as a fishing camp.” Word choice problem: change “not unlike” to “like.” Inconsistent word use: “Mr.” should be omitted because not consistent with previous use of “Grant.”] A court may find that Grant’s use of Tract 34 is sufficiently continuous, just as the *Buford* court found the possessor’s gardening and storage sufficient to establish continuous use. *Id.* Moreover, like the possessors in *Darling*, 415 A.2d at 230, and *Montgomery*, 278 A.2d at 748, who used the property for a short period of time during the year for hunting, Grant’s seasonal use of the property for fishing for approximately twenty weekends each year has been consistent with the character of the property Tract 34. Tract 34 is swampy and heavily wooded like the wooded property in *Darling*. 415 A.2d at 230. Grant has used Tract 34 with his friend since the early 1970s and as the sole owner since 1993, satisfying the ten-year statutory requirement. [12] Grant may be able to prove that his use of Tract 34 was continuous and uninterrupted for more than ten years. [Evaluate the conclusion. The transition “In conclusion” is missing. Also, this sentence should be phrased as the conclusion. A possible revision is “In conclusion, Grant will probably be able to prove that his use of Tract 34 was continuous and uninterrupted for more than ten years.”]

Grant will probably be able to prove each of the six elements by clear and convincing evidence. Although Grant did not use the settlement year-round, he will likely be able to establish that his use of Tract 34 was consistent with the nature of the land. Moreover, although GP never “saw” Grant’s settlement, notice will likely be imputed to GP, given that anyone traveling along the Yazoo River would have seen the settlement. Accordingly, Grant will likely be able to establish a valid affirmative defense of adverse possession.

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