

Writing Reaction Papers and Research Papers

1. Reaction Papers

Reaction papers are 2-3 page documents in which you respond to a weekly reading assignment for a seminar. Because of space limitations, you should not provide a lengthy summary of the argument; also avoid lengthy quotations. You are not expected to do additional research, and there is no need for elaborate formatting of citations, footnotes, etc.

If there are multiple readings, you should feel free to write about only one of them (but you must read all of them!). However, you might also find it useful to compare the arguments of the readings, or use one to criticize the other.

You should feel free to write whatever you want, but you are likely to find it useful to structure your paper as follows:

a. A brief summary of the point you will criticize. This point might be the central idea of the reading; or it might be a subsidiary argument. You should avoid criticizing minor or peripheral arguments. Your summary should be no more than a short paragraph.

b. Your criticism. Here, you might want to go after the logic of the argument, or the evidence that it relies on, or both. Avoid invective, overstatements, and one-sidedness. Think about how the author would respond to your criticisms, and discuss those responses.

c. Implications. If your criticism is correct, what follows? If you have a positive alternative argument, make it here.

The most important criterion for grading is originality, though the coherence and correctness of your reasoning are also important. If, as you write, you think that what you are saying is obvious, it probably is, and has probably been said before many times. See if you can think of an unusual angle or perspective. As a general matter, you are more likely to have original ideas if you focus on the (important) details of the author's argument, especially its empirical assumptions or claims, than if you confine yourself to abstractions. In a short paper, this is hard to do. If you have a background in economics, or political science, or history, or otherwise have independent knowledge on which you can draw for criticism, you should use it.

2. Research Papers

Research papers are generally 20-30 page papers. They advance an original thesis that is supported by evidence. A few suggestions:

a. *Thesis*. You should be able to state your thesis in one sentence. Either the thesis must be original or the supporting argument must be original. You should always check with me before writing your paper; I can let you know whether your proposed thesis is promising or not.

Coming up with a good thesis is the hardest part of writing a paper. Obvious ideas have been taken, and non-obvious ideas are hard to think up, especially if you are unfamiliar with a topic. A useful start is to read a few articles about a topic that interests you and see if you can find some gaps or unanswered questions or controversial issues. Whatever you come up with,

a thesis has to be a specific proposition about how the world is or should be. “The indefinite detention of members of al Qaeda raises a host of interesting constitutional issues” is not a thesis. “Indefinite detention is unconstitutional” or “indefinite detention is constitutional” is a thesis. But these theses are far too broad for a 20-30 page paper. An example of a narrower thesis is: “the opinion in the Hamdan case is consistent [inconsistent] with precedent on military commissions.”

b. *Doctrine or policy?* A paper that argues that indefinite detention is, or is not, constitutional would be a doctrinal paper. A doctrinal paper, like a brief, argues that law supports some outcome; unlike a brief, it would be evenhanded. Modern legal scholarship frowns on doctrinal papers. You should feel free to write one but if you are thinking about becoming an academic (or just want to write a better paper), a better idea is to write a paper that has some policy dimension. If you want to argue in favor of a particular rule, you need to draw on philosophical or moral or economic or policy arguments. You may also write a descriptive paper, one that makes an (original) assertion about fact. For example, you could argue that a particular law emerged as it did because of the influence of interest groups, or that a particular law is likely to cause people to behave in some way not anticipated by its drafters. Law and economics papers use economic models; feel free to do this as well. Many people have found inspiration in the cognitive psychology literature. You could discuss the political or economic or ideological or historical causes of some law, or judicial opinion, or pattern of judicial opinions; this would necessitate doing research about the background political or economic or ideological or historical conditions.

c. *Tone.* An academic paper, unlike a legal brief, must have an impartial tone. Of great importance, you need to take seriously arguments different from your own, and address them in a respectful fashion. Do not exaggerate or overstate your argument. If the evidence for some claim is not clear, you must acknowledge that.

d. *Formatting.* Feel free to use any reasonable formatting style, including citation style. Do not spend a lot of time worrying about fonts and citation forms; that is not a good use of your time.

The usual problems with research papers are that they try to cover too much (the thesis is too broad), the idea is not sufficiently original, and the argument is one-sided.