

ND Law Library Guide

BLUEBOOKING FOR JOURNAL MEMBERS

(Research Department Pub. 16 Rev. 8/01)

New members of journals quickly become immersed in the *Bluebook*. It is easier to interpret the *Bluebook* when you understand the goals in source and citing, how the *Bluebook* differs for journal use as compared to its use for briefs and memoranda, and what changes occurred in the 17th edition of the *Bluebook*.

Accuracy and Uniformity: The Two Goals of "Admins"

Your goal in conducting "admins," that is, running source and cite checks, is two-fold. First, you are checking the *accuracy* of the author's substance. Are the quoted passages accurate? Do the sources really say what the author ascribes to them? Always check each quotation word for word, and don't be afraid to change an introductory signal where necessary, or otherwise flag an inaccuracy for your copy editor. If the author is saying what a case says, check the holding; if the author is not referring to the holding, is she clear about why she is using the case? Check the source for validity. For cases, Shepardize or KeyCite; look at the negative treatment to see if the case can be cited as the author interprets it.

Of course, always check to see if the citation conforms to the *Bluebook*. Here you are seeking **uniformity** of the citations for three reasons:

1. Uniformity makes it **easy** for your reader to locate the information. (Be liberal with citation parentheticals).
2. Uniformity makes it cheap to publish, that is, you will use little space by **abbreviating** according to *Bluebook* protocol.
3. Uniformity ensures **consistency**
 - ▶ within the article;
 - ▶ within the issue;
 - ▶ within the volume;
 - ▶ within the historic idiosyncracies of your journal;
 - ▶ within the world of *Bluebook* users.

How can you be consistent?

- ◆ Within the article:
 - ▶ Follow the *Bluebook* rules.
 - ▶ Communicate with staffers working on the other aspects of the article.
 - ▶ Know where you can find a complete copy of the article if you need it.
 - ▶ Know who has the other parts of the article, so you will know:
 - what **hereinafter form** to use,
 - about previously entered **ILL requests**.

- ◆ Flag any problems or anything you have extrapolated, so the copy editor can review it. This leads to consistency by issue and volume.
- ◆ Note your journal's special rules to achieve historic consistency. For example, JCUL uses parallel cites for all US Supreme Court cases. Which of the **short forms** for cases does your journal use?
- ◆ You often have to extrapolate, despite the numerous rules within the *Bluebook*.
 - ▶ Feel free to ask any research librarian for help.
 - ▶ Try this method we often use: after interpreting the *Bluebook*, if not entirely clear, check to see how other journals cite the source.
 - Use a full text database; for WESTLAW use TP-ALL, texts and periodicals; on LEXIS, use Law Reviews, Combined.
 - Fashion a search which looks for a footnote in an article which cites your questionable cite, or a similar cite.
 - Then check to see if the journals you have found follow the *Bluebook* (as opposed to the Maroon Book or the new ALWD Citation Manual). Because the 17th edition is so new you may not find samples until early 2001. Articles under the 16th edition appear after 1996, as that is the date of the 16th edition. The author's page in a hard copy of the journal tells which citation manual the journal uses. Preferred examples are law reviews from Harvard, Columbia, University of Pennsylvania or Yale, producers of the *Bluebook*.
 - Recognize that even here you may find variation in interpretation. In that case, go back to the underlying goals:
 1. ease in obtaining the original source;
 2. abbreviate as much as possible;
 3. consistency.

Your Journal's Idiosyncracies

Determine with your copy editor any exceptions to the *Bluebook* your journal has adopted. You will also have an easier time if all journal staffers use the same editing marks for your secretary or editor. For example, you may not need to mark out each letter for typeface changes. Your journal handbook probably has editing symbols for you to use. If not, dictionaries or reference works on reserve have those symbols and their meanings.

How to Use the *Bluebook*

- ◆ Use it as a reference work; get in the habit of checking each cite against the *Bluebook*. There are too many rules and exceptions to remember.
- ◆ But, do **read** these areas:
 - ▶ front inside cover
 - ▶ Preface to the Seventeenth Edition
 - ▶ Get acquainted with the Table of Contents.
 - ▶ Introduction
 - ▶ Skip the Blue P section (For example, journals do not use parallel cites for cases.)
 - ▶ Rules 1-9, General Rules of Citation and Style
 - ▶ Rule 18, Electronic Media and Other Nonprint Resources

- ◆ Refer to the tabbed sections as needed
 - Rules are tabbed.
- ◆ Tables and Abbreviations
 - 1 Jurisdictions and sources
 - 6 Case names (The new liberal rule on abbreviating simplifies this process.)
 - 9 Subsequent history
 - 11 Geographic terms
 - 14 Law reviews
 - 16 Services (Use this when you are having difficulty finding the source in LINK or online.)
- ◆ Index - do not underestimate the Index; it is very good. Also, the contents at the beginning of each chapter can be helpful

Some Differences in Bluebooking for Journals as Compared to Briefs and Memoranda with Changes in the 17th Edition Noted

Remember that many court jurisdictions have their own citation rules which may differ from the *Bluebook*. For more information, see Ass'n of Legal Writing Directors & Darby Dickerson, *ALWD Citation Manual: A Professional System of Citation* app. 2 (2000). The *Bluebook* is designed for journal use. As a 1L you learned to use the *Bluebook* typeface and conventions for briefs and memoranda, relying on the examples in the back inside cover. You may have used sample citations in various handouts and Alan Dworsky's book, *How to Eliminate the Bluebook Blues*, however, the downside of those methods is that they use typeface and conventions for briefs and memoranda. You will cite numerous sources never covered in the 1L class, and much of what you cite requires you to interpret the rules.

Here are a few of the major differences between how you used the *Bluebook* as a 1L and how you will use it for the journal.

Typeface

The good news is that the examples in the *Bluebook* are **already in the proper typeface for you to use!** See the **front inside cover** and **Rule 2**. There is a different rule for typeface in citations as opposed to typeface for textual material. For example, case names are NOT italicized in citations, however, they are when used in the text. The main text contains no citations. "Citation" and "textual material" are terms of art. A *citation clause* can appear in the text of a footnote (follow the typeface convention for citations, for example, case names appear in regular typeface). *Textual material* can appear in a footnote (follow the typeface convention for textual material, for example a case name grammatically part of a sentence in a footnote is italicized).

Signals

Citations are introduced by signals which indicate the purpose for the citation and the degree of support the cited source gives. See Rule 1.2 for a list of the signals. The 16th edition changed the rule regarding the use of "no signal" versus "see" that caused an uproar among both authors and editors and left staffers confused. Consequently, the 17th edition reinstates the 15th edition rule regarding the use of "see." Note that when more than one signal is used, the signals appear in the order specified by Rule 1.2, and when several authorities appear, they are grouped hierarchically according to Rule 1.4.

Internal Cross-References, Short Forms and Hereinafter

Work together. Your journal should have an approved short form. (The *Bluebook* often gives choices, for example, Rule 10.9 provides various short forms for cases.) You also need a way for the person with the citations from the first part of the article, who will be assigning "hereinafter," to communicate that to the others working on that article. (Hereinafter is used when the usual *supra* would be too cumbersome.)

Quotes

Quotations are covered by Rule 5. Check every block quote for accuracy; authors frequently make mistakes. If the quotation does not begin as a paragraph in the source, then the block should not be indented. If words are missing from the quotations, insert ellipses. Never begin a quotation with an ellipsis. If the quotation has a misspelling or a grammatical error, leave it in and use [sic] after the error. Do not insert ellipses for footnotes or citations omitted. Rather, use the parenthetical phrase (citation omitted) immediately after the citation to the quote.

Cases

Regarding cases, note these elements:

- ✓ Name, reporter [use a regional cite for state cases], (court date) followed by the subsequent history.

The 17th edition has a more liberal abbreviation rule for case names in citations. Now, even the first word of a party's name must be abbreviated according to expanded Table 6 which now includes many words. As before, the rule also allows you to abbreviate words of eight letters or more to save *substantial* space where the result is unambiguous. See Rule 10.2.

Recall, however, that United States may not be abbreviated when it is a party in a case name. (If it is used as an adjective, United States may be abbreviated.)

Omit all words not necessary for identification. For example, never have both Co. and Inc. in the same party name.

Do not use parallel cites for cases (unless your journal has adopted a local rule). The 17th edition requires use of "official public domain citations" where they exist. These citations are specified by court rule in jurisdictions which make decisions available electronically. In addition, the 17th edition requires a regional cite when it is available. Table 1 of the *Bluebook* now provides information on which jurisdictions make decisions available as public domain citations. Moreover, <http://www.legalbluebook.com> will provide a running list of jurisdictions as they adopt a public domain citation format.

Use parentheticals to indicate the weight of authority (e.g., an unpublished decision, a dissent, etc.). See Rule 10.6.

Use Shepard's and/or KeyCite to determine subsequent history. See Rule 10.7. **The 17th edition continues the cutbacks on what is required. Omit denials of certiorari or denials of similar discretionary appeals, unless the decision is less than two years old or the denial is particularly relevant.**

When a decision is available only online, use the special numbering given by the computer system, including its star paging for pinpoint cites. Where the special numbering is not available, give complete information on how to find the case. Refer to Rule 18.1.1.

According to Rule 10.9 a short form for cases may be used if the case is

1. already cited in the same footnote,
2. cited in either full or short form in a manner readily identifiable in one of the preceding 5 footnotes, or
3. named in the same textual discussion.

Statutes and Legislative Materials

Rule 12.1 sets out the basic citation forms, however, pay as much attention to Rule 12.2, Choosing the Proper Citation Form. The exceptions in 12.2.2, especially (b), are often the form you need to use.

Note that, if possible, you must cite statutes currently in force to the official code or its supplement. This means that checking statutes is a two step process. Update the statute completely using an unofficial source to note the most current changes, then backtrack to see how far behind the official code might be. If the official code is not completely up to date, you may cite to a current unofficial code or its supplement or to a number of other choices listed in Rule 12.2.1.

Secondary Sources

Use the full name for the author as it appears in the title page. The 17th edition's Rule 15.1.1 now allows listing of all authors when there are more than two when including them is "particularly relevant."

Always check expanded Table 14 for abbreviations of periodicals.

Other Sources You Probably Did Not Use as a 1L

Pay particular attention to Rule 17 which covers several types of materials, mostly unpublished, which you may not have used before. Rule 18 covers electronic media, such as LEXIS, WESTLAW, Internet sources, CD-ROMs and other non-print formats. Rule 18 still requires use of traditional sources over electronic ones, except in two cases: (1) when the information is not available in a printed source, or (2) the traditional source is hard to obtain and the electronic format substantially improves access.

If the traditional source is used, but the author or your journal wants to indicate increased access, give the traditional cite to the extent possible, followed by the phrase *available at* with the database or URL as a parallel citation.

If the author was unable to access the traditional source and uses only the electronic source no explanatory phrase is used. For example, see samples indicating publisher and electronic coverage within the date parenthetical for statutes under Rule 18.1.2; parallel citation under Rule 18.1.3 for congressional debate; the Alan C. Michaels Harvard article under Rule 18.1.4; the *Minnesota v. McArthur* case under Rule 18.2.1, etc.

When a work is available *only* on the commercial electronic systems or via the Internet, for materials other than cases use the explanatory phrase *at*. For cases, follow Rule 10.3.1. The order of preference is to cite an official public domain citation if it exists with a parallel regional citation; a regional citation; an official or another unofficial reporter; a widely used computer database; a looseleaf service; a slip opinion; an Internet source; or a newspaper. See Rule 10.3.3 and Table 1 for the public domain form and Rule 18.1.1's complete case citation rules for electronic formats.

Notice that Rule 18 has several underlying policies. First, the use or lack of explanatory phrases indicates which source the author actually used. Moreover, among electronic sources the rule prefers cite-worthiness for authoritativeness, availability or convenience. When the electronic location of the source is tentative, Rule 18.2.1(h) suggests printing off the source to keep an archival copy to be filed with the author or journal. Rule 18.2.1 provides extensive guidance on citing Internet sources.

The elements of Internet citation are:

- ✓ full source information similar to traditional citations, phrase to indicate which source the author used if needed, provider responsible for the Internet site where not clear from the URL, the URL, a date parenthetical, and any explanatory parenthetical.

Rule 18.2.1(e) covers dates. If a citation is only to the Internet source, a date is provided before the URL for online journals, but after the URL otherwise. The order of preference for source of date is, date of the material as specified in the information; date the site was last modified, or the date the site was last visited.

Note, that < > is no longer used around Internet addresses.

Rule 19 covers services, the unofficial looseleaf publications heavily used in administrative law. Use LINK to find the location of these items in the library.

Rule 20 covers foreign materials and 21 covers international materials.

For further changes in the 17th edition, read the Preface.

Frequently the *Bluebook* will give general guidance but not an example for what you need to cite. Let the goals of uniformity and ease of finding the source guide you when you have to extrapolate from the examples given. As always, feel free to ask a research librarian for additional help.