

## The Business Lawyer

### GUIDELINES FOR SURVEY EDITORS

#### *Introduction*

*The Business Lawyer (TBL)* is the premier publication of the Business Law Section of the American Bar Association. It is one of the most well-respected and frequently cited legal journals in the country. One of the principal reasons for its high regard is that all of its articles, reports, and surveys are peer-reviewed. The role of a Survey Editor is to provide that peer review. Irrespective of the reputation, experience, or position of the author(s), the Survey Editor is expected to carefully check the survey for accuracy and ensure that in all other respects – relevance, comprehensiveness, organization, style, grammar, and citation form – the survey is ready for publication.

Unless specified otherwise by the chair of the Committee responsible for a survey, the Survey Editor selects the survey author(s).

#### *Process & Deadlines*

The editorial process is depicted by the following diagram.



\* if necessary

Each survey author submits the survey manuscript directly to the Survey Editor. The Survey Editor then reviews and edits the manuscript. It is at this point that the Survey Editor should read the manuscript, read the cited sources, edit the survey for substance, readability, style, and grammar, and make sure the length is within the page limits for the survey. In surveys written by multiple authors, it is especially important for the Survey Editor to edit the entire survey for consistency of style, so that it reads smoothly. Once the Survey Editor completes the review and editing, the piece is returned to the author(s) for review of the changes.

After revising the manuscript, the author, though the Survey Editor, sends it to *TBL*. Before the start of the cite-checking process, both the Editor in Chief and the Executive Editor review the manuscript for readability, style, grammar, and apparent completeness of the citations. If those items require further work, the piece is returned to the Survey Editor for that work prior to the cite-checking process.

During the cite-checking process, the Executive Editor double-checks the accuracy and format of all citations and performs a minor stylistic edit. If necessary, the manuscript may be returned to the author for additional work. Otherwise, it is returned to the author for review of all changes and final approval.

Each step of this process can be time-consuming. *TBL* must receive the manuscript four months before the publication of the issue. To that end, the author must submit the manuscript to the Survey Editor at such time before such four-month period as the Survey Editor may decide,

taking into account his or her workload, the length of the survey, and the amount of editing the survey has historically needed. Assuming the Survey Editor needs at least six weeks, the schedule looks as follows:

To Survey Editor	To <i>TBL</i>	Publication Date
August 15	October 1	February
November 15	January 1	May
February 15	April 1	August
May 15	July 1	November

### *The Role of the Survey Editor*

The Survey Editor performs the peer review that is the hallmark of *The Business Lawyer*. To that end, the Survey Editor should first read the author’s manuscript so as to assess the manuscript’s overall quality and completeness. The Survey Editor should then undertake a thorough substantive review of the manuscript. If the survey covers statutory or regulatory developments, the Survey Editor should closely study the applicable statute or regulations. If the survey covers judicial developments, the Survey Editor should read every case discussed or cited. If the Survey Editor disagrees with the author’s analysis of a statute, regulation, or case, or with any statement of law in the manuscript, the Survey Editor should suggest appropriate changes. This substantive review is the most important aspect of the Survey Editor’s job. The Executive Editor will **not** be evaluating the substantive accuracy of the survey.

In addition to reviewing and editing the manuscript for substantive accuracy, the Survey Editor should make sure that the survey is appropriately documented (i.e., all propositions are appropriately supported), well organized, clear, and grammatically correct, and that citations are in proper format. The following items offer more specific guidance from experienced survey editors:

- Surveys should briefly analyze, not merely describe, the applicable legal developments. For example, in discussing statutory or regulatory changes, the author could indicate, in a few sentences, whether the changes are desirable, will achieve their intended objective, will be difficult to implement or apply, or will give rise to unintended consequences. In discussing a recent case, the author could indicate, in a sentence or two, whether the court reached the correct result, properly interpreted a governing statute, or identified or overlooked important precedent. The discussion of any development could include the author’s opinion of its likely impact, including lessons learned and advice on how practitioners should deal with it.
- In a survey of statutory or regulatory developments, the survey should provide an appropriate summary of the major changes and the purported reasons for those changes.
- In a survey of judicial developments, the survey should provide appropriate context for each case before discussing its facts or holding. This typically means identifying the

subject to which the case relates and the precise legal principle at issue. The discussion should focus on the salient aspects of the case (as determined in relation to the subject and the legal principle at issue). The author should avoid including procedural details of the case unless procedure goes to the very essence of the case and the legal principle for which it stands. The presentation of each case and of all cases in a particular section should be carefully layered, so that the topical ideas or principles get top billing, and so that all other ideas, principles and information occupy a clearly supporting role and appear in order of their decreasing relevance to that role.

- In a survey of judicial developments, each reference to the facts or reasoning of a case should be supported by a citation to the precise page(s) on which that fact or analysis appears. In a survey of statutory or regulatory developments, each reference to the statute, regulation and its history should be supported by a citation the precise section or statement which supports the reference.
- Extensive quotations should be avoided. Surveys should summarize statutory and regulatory changes rather than reprint them. Surveys should describe the key components of a court's methodology or reasoning, not simply quote at length from the opinion.
- In a survey prepared by multiple authors, format and style should be consistent throughout. The various sections of a survey should not overlap (e.g., by discussing the same case or the same regulatory development) unless the overlap is deliberate and justified, it is clearly acknowledged (e.g., via cross-references) in the survey, and its elements form a cohesive unit.

Needless to say, the better these expectations are communicated to the survey authors, the easier the Survey Editor's job will be. Authors should be expected to produce their best work consistent with these principles, and not rely on the Survey Editor to complete or rewrite the manuscript. Similarly, Survey Editors are expected to do their best work and not rely on those involved later in the process for the peer review and substantive editing that are the Survey Editor's job.