



## 2013 Student Essay Contest

**\$1,000, \$750 and \$500 Awards  
Plus \$500 Teacher Award**

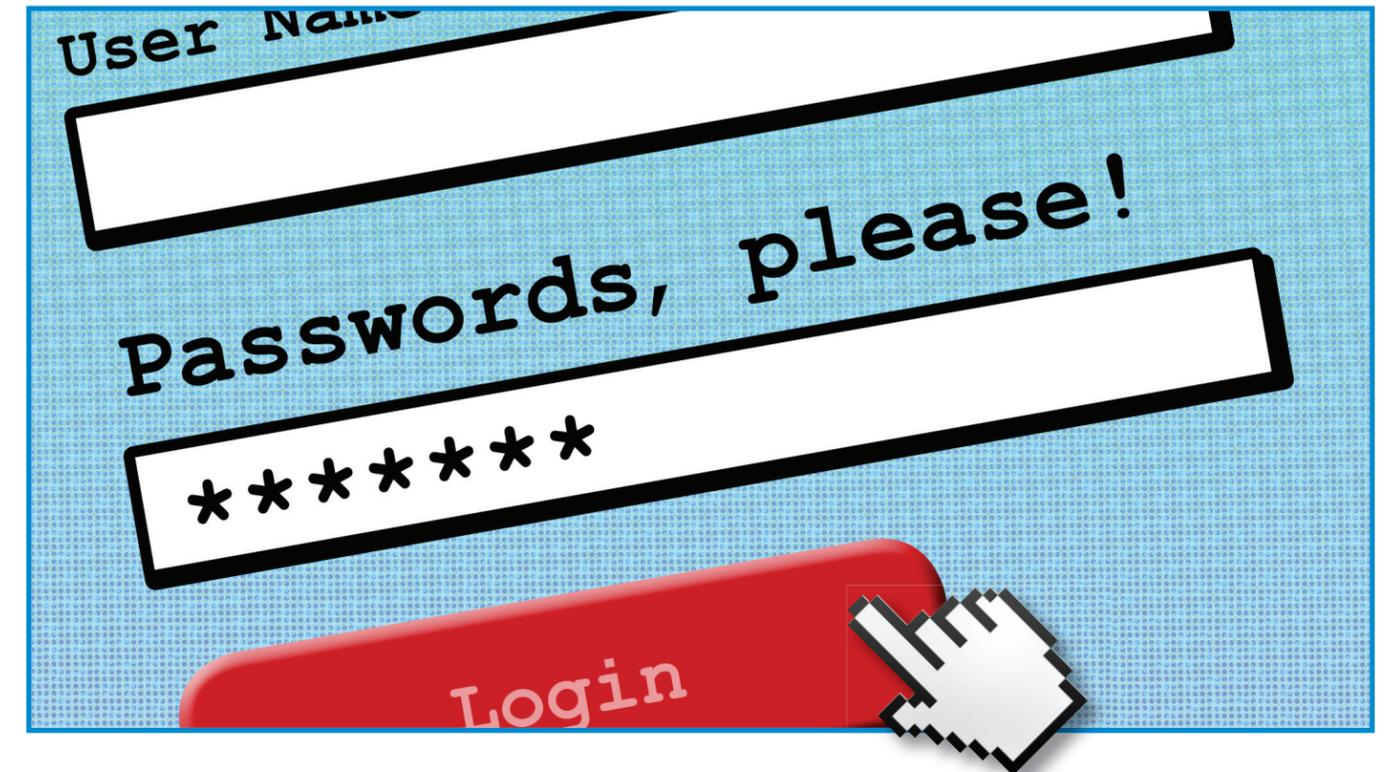
### ESSAY CONTEST RULES (Note: Entries that do not follow all rules will be disqualified.)

- The contest is open to New Mexico high school juniors and seniors only.
  - All entries must be received via email no later than 5 p.m., March 1, 2013.
  - Each entry must be on 8 1/2" x 11" paper in 12-point Arial or Times New Roman font, double-spaced.
  - Each entry must contain 1000 to 1500 words.
  - The heading at the top of the first page must include:
    - Name of the student
    - Name of the school
    - Name of the teacher
    - Word count
  - Each entry must be accompanied by a completed entry form.
  - Judging will utilize the Public School Generic Essay Scoring Rubric in the following areas:
    - Content:** Demonstrates clear understanding; deals with subject in strong and convincing manner; uses persuasive information.
    - Originality:** Demonstrates creativity or originality; strongly shows writer's attitude or point of view in a meaningful and original way; thesis clearly supported.
- Writing Style:** Well-organized and focused; begins and ends effectively; strong development; writing style and structure reinforce tone and content; no grammatical errors; authoritative, using appropriate vocabulary and tone.
- Essays must be the original work of the student.
  - Essays will be judged by State Bar members, staff, and a distinguished panel of judges representing lawyers and courts statewide.
  - The awards are as follows:
    - 1st Place, \$1,000 and 1st Place Winner's Teacher, \$500
    - 2nd Place, \$750
    - 3rd Place, \$500
  - Teachers will receive their students' scores.
  - Winners will be presented at a luncheon in Albuquerque during Law Day activities in May 2013.
  - The State Bar of New Mexico reserves the right to reprint the essays and to release the winning essays to local newspapers for publication. All essays will become the property of the State Bar for publicity and promotional purposes.



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### Deadline: March 1, 2013

- Required length: 1000–1500 words
- Essays will be judged by a distinguished panel of lawyers, judges, State Bar staff and educators.
- Essays will be evaluated according to content, originality, writing skills and a public school essay scoring rubric.
- Official entry rules and entry form are on page 4.
- All materials and a writing tutorial are available at [www.nmbar.org](http://www.nmbar.org).

### Sponsored by the Modrall Sperling Law Firm

Modrall, Sperling, Roehl, Harris & Sisk, PA is proud to honor the late James E. Sperling through sponsorship of the State Bar of New Mexico Student Essay Contest. Mr. Sperling practiced law with the Modrall firm from 1946 until his death in 1991 and served for many years as the firm's president. An avid outdoorsman, Mr. Sperling had a life-long interest in natural resources law, and he developed and managed the firm's natural resources department.

Mr. Sperling also dedicated years of public service to the New Mexico legal community. He chaired the New Mexico Federal Judicial Selection Committee and the Admissions and Grievance Committee of the United States District Court for the District of New Mexico. He served for many years on the New Mexico Judicial Standards Commission and numerous other state and federal

committees. He also taught oil and gas law at the University of New Mexico School of Law and authored several scholarly articles on natural resources law.

Aside from the laurels associated with an extraordinary legal career, Mr. Sperling was a person of tremendous warmth, generosity and humility. He was a man of few words, but those he spoke were, as one of his colleagues put it, "nigh-on-perfect." During the latter years of his practice, much of Mr. Sperling's time was devoted to advising his law partners and training the new attorneys at the firm. His legacy to New Mexico lawyers and aspiring lawyers is his example of approaching law practice with unwavering integrity and complete dedication to the interests of one's clients.

### State Bar of New Mexico 2013 Student Essay Contest Entry Form

(Please type or print. Complete all information. Download an entry form at [www.nmbar.org](http://www.nmbar.org).)

Name of Student:

Check One:  Junior  Senior

Word Count:

Name of School:

Name of Teacher:

School Phone:

School Street Address:

City:

Zip:

I hereby certify that the essay I submit is my original work.

Student Signature

Entries that do not follow all rules will be disqualified. Submit the essay and entry form by email to [dseago@nmbar.org](mailto:dseago@nmbar.org). For further assistance or questions, call Dorma Seago, 505-797-6030.

## TOPIC

# Passwords, please!



**B**ill was thrilled. He had just been hired for a summer job and the offer promised that, if he performed to expectations, he would be hired for a part-time position when he begins college. The salary would be more than sufficient to cover his tuition and books. The remainder amounted to \$2,000, which he could spend on whatever he wanted. He decided to pursue a university studies track his first year and decide on a major later in the year or maybe the following year. This would allow him to get used to part-time work.

Bill was well liked by his supervisor and coworkers. The company had a few large government military contracts with some requiring special military clearances. Even though Bill was not allowed to work on any job that required special clearance, he thought it was cool to be around someone who might be a special agent. At the end of the summer, Bill was told that he had passed the review and would be hired for the part-time position.

As part of the hiring process, Bill was asked to consent to a criminal background check and a drug test and to provide the most recent copy of his credit history. He was also asked to identify all social media to which he belongs and to provide the username and password for each one.

## THE ESSAY QUESTIONS



**I**s it constitutional for employers to gather this type of information, including passwords to social media accounts such as Facebook and Twitter, as part of a background check for a job?

Use the following research materials to answer the question. Be advised that news articles are the opinions of the authors and should not be taken as law. Even though an article may quote law, you cannot necessarily accept the position the author has taken or the interpretation of the part of law selected.

Laws, such as those of Maryland and Illinois, are subject to judicial review. The Stored Communications Act and the Computer Fraud Abuse Act both use specific terms such as “in transit.” Such terms may or may not apply to social media.

## RESEARCH

(Students are encouraged to perform further research as needed.)

**B**oth of the following cases involve current employees. Both cases can be accessed by their names through Google Scholar at scholar.google.com.

*Pietrylo v. Hillstone Restaurant Group*, 2008 WL 6085437 (D.N.J., July 25, 2008) - In order to prevail on their statutory claims, Plaintiffs were required to offer sufficient evidence to allow the jury to conclude that Houston’s managers knowingly, intentionally, or purposefully accessed the Spec-Tator without authorization. According to the SCA, if access to the Spec-Tator was authorized “by a user of that service with respect to a communication of or intended for that user,” there is no statutory violation. 18 U.S.C. § 2701(c)(2).

*Konop v. Hawaiian Airlines, Inc.*, 302 F.3d 868 (9th Cir. 2002) - Robert Konop brought suit against his employer, Hawaiian Airlines, Inc., alleging that Hawaiian viewed Konop’s secure website without authorization, disclosed the contents of that website, and took other related actions in violation of the Stored Communications Act.

*NASA v. Nelson*, 131 S. Ct. 746, 562 US \_\_\_, 178 L. Ed. 2d 667, No. 09-530 (2011) - Twenty-eight scientists and engineers sued NASA, Caltech, and the Department of Commerce alleging that the background-check requirement violated a constitutional right to informational privacy.

**U.S. Constitution**  
<http://1.usa.gov/krfjhl>

**The New York Times : Senators Question Employer Requests for Facebook Passwords**  
<http://nyti.ms/LEj4OU>

**The Portsmouth Herald: Can an Employer Ask for Your Facebook Password?**  
<http://bit.ly/LVTm5d>

**The Washington Post: Learn the Legal Implications before asking for Facebook logins**  
<http://wapo.st/LO7E7w>

**From POLITICO : Dem: Facebook passwords off-limits**  
<http://politi.co/MnXpco>

**Verdict.justia.com: Can Employers Legally Ask You for Your Facebook Password When You Apply for a Job?**  
<http://bit.ly/H8wjFc>

Maryland and Illinois have bans against asking for Facebook passwords.  
<http://mlis.state.md.us/2012rs/bills/sb/sb0433t.pdf>  
<http://ilga.gov/legislation/publicacts/fulltext.asp?Name=097-0875>

**Stored Communications Act: 18 U.S.C. Chapter 121 §§ 2701–2712**

The SCA prohibits intentional access to electronic information without authorization or intentionally exceeding that authorization.

**Computer Fraud and Abuse Act: 18 U.S.C. § 1030**  
The CFAA prohibits intentional access to a computer without authorization to obtain information.

## LEGAL WRITING BASICS

**A**lthough following a specific format it is not required, a persuasive essay with “legal formatting” is strongly recommended in order to achieve the true “flavor” of legal writing. Further, even though portions of statutes/law are included, the excellent essay will include additional statutory or case research. As in real life, sometimes there is not enough information presented to answer a legal question.

Attorneys follow proper rules of written form to make their documents easier to read. The generally accepted form of a legal argument is an outline.

First, a brief summary of the facts should introduce the reader to the event in question. Second, the legal argument is presented. There is generally more than one argument in a legal memo or brief. Each question that accompanies the essay topic contains a legal argument. Your response would normally contain subparts to go with each of these questions. Each subpart would contain: a heading, which states your conclusion in one sentence; a statement of the applicable legal rule; your application of the facts given to the legal rule; and a conclusion, summarizing the key points leading to your conclusion.

Refer to our website for more information.

VISIT US ONLINE AT

[www.nmbar.org](http://www.nmbar.org)

for additional help and hints.

### For Students

- ✓ Essay Contest Flyer
- ✓ Essay Contest Tutorial
- ✓ Official Entry Form
- ✓ View Past Winning Essays

### For Teachers

- ✓ Standards and Benchmarks information
- ✓ Public Schools Generic Essay Scoring Rubric