

Legal Research and Writing: An Integrated Approach

Syllabus

Fall 2023

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Office Hours: Drop in on Thursday, 11:00-12:30

Also available by appointment (email me at cfregosi@vermontlaw.edu)

This is the first course in a yearlong cycle of instruction introducing you to the fundamentals of effective legal research, writing, and citation. In this course, you will learn and practice the basic skills necessary to succeed in the practice of law, whatever your chosen field. In the spring semester, in Legal Writing II, you will build on these basic skills to develop more sophisticated researching, writing, and citation practices. The premise of both courses is that research, writing, and citation weave together like a triple helix, each informing the other in the process called legal writing. We therefore teach the topics of research, writing, and citation as three aspects of the same process: your work product in both courses requires that you practice researching, writing, and citation skills.

We use a spiraling method of instruction in these courses: We first introduce core concepts such as hierarchies of authority, precedent, and *stare decisis*, as well as effective legal research and writing processes. Then, throughout the two semesters, we circle back to these concepts with increasingly complex analytical assignments. This semester, we focus on “objective” writing: The essential skill of predicting the likely outcome of a legal dispute based on an accurate and unbiased analysis of binding precedent applied to your client’s facts. In Legal Writing II, we turn to the art of advocacy. You will draft persuasive arguments using the same skills you develop in this course, but in a writing style designed to persuade a court to rule in your client’s favor.

This course is divided into four Units. In Unit 1, we introduce you to the structure of—and relationship between—American legal systems and legal research systems. Understanding the hierarchies of authorities and the appropriate use of primary authority, and how to access that authority, is an essential predicate to effective legal analysis, so we begin there. Unit 2 focuses on how to construct a legal argument using the CREAC organizational structure (Issue/Rule/Rule Explanation/Analysis/Conclusion) and researching a project from start to finish. We also introduce the key principles of writing in Plain English in Unit 2. Unit 3 synthesizes the lessons of the semester with a final writing project using the Office Memorandum format. The first three Units all include instruction and practice in proper legal citation format. The course concludes in Unit 4 with an oral skills exercise, in which you present your legal analysis and advice to a supervising attorney.

Learning Outcomes:

By the end of this course, you will be able to:

1. Describe the structure, components, and functions of legal systems in the United States.
2. Describe the relative weight of different types of primary and secondary authority.
3. Demonstrate efficient, thorough, and deliberate research processes for primary and secondary authority in federal jurisdictions.
4. Identify sources of authority relevant to a complex fact pattern, including constitutional provisions, statutes, regulations, and rules of common law.
5. Identify material facts within a complex fact pattern when given a legal issue.
6. Demonstrate rule-based reasoning skills to analyze the potential outcomes of a legal dispute.
7. Demonstrate analogical reasoning skills to analyze the potential outcomes of a legal dispute.
8. Apply statutes, cases, regulations, and other forms of primary authority to analyze the potential outcomes of a legal dispute.
9. Identify and dismiss counter-arguments.
10. Practice using key principles of Plain English to express your analysis clearly and concisely.
11. Practice proper *Bluebook* citation format with constitutions, statutes, cases, and regulations.
12. Practice oral presentation skills.

Required Texts:

1. Amy E. Sloan, *Researching the Law: Finding What You Need When You Need It* (4th ed. 2023)
2. Christine Coughlin, et al., *A Lawyer Writes: A Practical Guide to Legal Analysis* (3d ed. 2018).
3. Richard C. Wydick & Amy E. Sloan, *Plain English for Lawyers* (6th ed. 2019).
4. Harvard Law Review et al., *The Bluebook: A Uniform System of Citation* (21st ed. 2020).

Honor Code:

The Vermont Law and Graduate School Honor Code governs your work and conduct in this course. Whenever you use the words or ideas of another writer, you must acknowledge the original source. Cite the original source even when you are paraphrasing the language of a judicial opinion or another person's ideas. The assignments you submit must be your own work product. You may not give an outline or a draft of an assignment to anyone else for their review and comment, including other students, friends, partners, etc. The only exception to this rule is that you may meet with the Writing Specialist to review your writing (see below).

The Writing Specialist:

Vermont Law and Graduate School's Writing Specialist, Professor Meg York, is available to help you with the mechanics of your writing, including grammar, punctuation, sentence structure, paragraph structure, and organization. You can meet with Professor York after you have submitted an assignment to me. Contact Professor York at WritingSpecialist@vermontlaw.edu for an appointment.

Grading:

Letter grades are based on the course assignments (90%) and class activities (10%). Class activities include attending classes, participating in class discussion, the first draft of your Unit 3 Assessment (Office Memorandum), meeting all deadlines, and completing all the projects and exercises listed in the schedule below. Pursuant to Vermont Law and Graduate School academic regulations, students who are absent from more than four regularly scheduled classes shall be automatically withdrawn from the course with a grade of F-Wd.

Submit all course work to Canvas

The grade distribution in Legal Research and Writing is as follows:

(1) Unit 1 (Research and citation assignment) (due on September 24)	20%
(2) Unit 2 (Discussion Section assignment) (due on October 22)	20%
(3) Unit 3 (Office Memorandum) (ungraded first draft due on November 11; final draft due one week after our individual conference)	40%
(4) Unit 4 (Presentation skills assignment) (week of November 27)	10%
(5) Homework and Class Activities (across all units)	10%

Students are responsible for submitting assignments on time. Any student who fails to submit an assignment on time will receive a grade reduction for that assignment. The grade reduction is five points per day for each day that the assignment is late. Assignments turned in more than five days past the assignment's deadline will receive a zero.

Course Schedule

Week	Date	Class Topic	Reading Assignment	Written or Other Assignment
<i>Unit 1: What is Law? (And How to Find It)</i>				
1	August 28	Course introduction	<p>Course syllabus and schedule (on Canvas)</p> <p><i>A Lawyer Writes</i>, xix-xx and 15-22 (Introduction and Sources of Law (through “Weave a Tapestry”))</p> <p><i>Researching the Law</i>, 3-7 (Introduction to Legal Research)</p>	<p>Install (free to you) Microsoft Office 365 from VLGS’s IT website if you do not already have it.</p> <p>Attend Westlaw training. You have two options for the required Westlaw training:</p> <p>Westlaw Training - Option #1 Monday, August 29, 2022, 5:00 – 6:00 pm Microsoft Teams meeting Click here to join the meeting</p> <p>Westlaw Training - Option #2 Tuesday, August 30, 2022, 5:00 – 6:00 pm Microsoft Teams meeting Click here to join the meeting</p>
	August 30	Hierarchies of authority and sources of law; introduction to <i>stare decisis</i> ; introduction to citation	<p><i>A Lawyer Writes</i>, 22-31 (Systems of law) and 133-39 (Citing and Avoiding Plagiarism)</p> <p><i>Researching the Law</i>, 9-20 (The American Legal System)</p> <p><i>The Bluebook</i>, read Table of Contents, Rule B1.1, and Rule 1.1</p>	<p>Attend Lexis training. You have two options for the required Lexis+ training:</p> <p>Lexis+ Training – Option #1 Wednesday, August 31, 2022, 5:00 – 6:00 pm</p>

				<p>Microsoft Teams meeting Click here to join the meeting</p> <p>Lexis+ Training - Option #2 September 1, 2022, 5:00 – 6:00 pm Microsoft Teams meeting Click here to join the meeting</p>
2	September 4	No class—Labor Day		
	September 6	Beginning the research process; citing cases	<p><i>Researching the Law</i>, 21-33 (Defining a Research Question, Pre-Search Filtering)</p> <p><i>The Bluebook</i>, Rules B2, B10.1, 10.1, 10.2, and Table 6 (Case names in citations)</p>	<p><u>Before class</u>: complete Case Name Exercises, <u>due on Canvas by September 6 at 10:00 am</u></p> <p><u>After class</u>: complete ICW exercise 1</p>
	September 8	<p>Makeup class 12:45-2:00 pm, Map Room</p> <p>Reading statutes; practicing search terms and techniques; case citations continued</p>	<p><i>Researching the Law</i>, 35-62 (Research Tools and Search Techniques, Working with Search Results; Keeping Track of What You Find)</p> <p><i>The Bluebook</i>, Rules 10.3, 10.4, 10.5, Table 1, and Table 10 (Reporters, court, and date)</p>	<p><u>Before class</u>: watch Lexis Learn Keywords Basics (7 minutes), Terms and Connectors, Commands and Segment Searching (8 minutes) and Westlaw Searching – Basic (7 minutes)</p> <p>Complete Reporter, Court, and Date Exercises, <u>due on Canvas by September 8 at 10:00 am</u></p> <p><u>After class</u>: complete ICW exercises 2 and 3</p>
3	September 11	Secondary source research; case citations continued	<p><i>Researching the Law</i>, 65-81 (Legal and Nonlegal Secondary Sources)</p> <p><i>The Bluebook</i>, Rule 10.6 (Parenthetical information)</p> <p>SCOTUS (cleaned up) (on Canvas)</p>	<p><u>Before class</u>: watch Lexis Learn Secondary Sources Module (9 minutes) and Westlaw Secondary Sources – Basic (7 minutes)</p> <p><u>After class</u>: practice with Terms and</p>

				<p>Connectors searching tutorial (20 minutes)</p> <p>After class: complete ICW exercise 12</p>
	September 13	Researching cases; case citation short forms	<p><i>A Lawyer Writes</i>, 45-59 (Reading Opinions)</p> <p><i>Researching the Law</i>, 83-108 (Cases, Citators and Other Updating Tools)</p> <p><i>The Bluebook</i>, Rule 10.9 (short forms for cases)</p>	<p><u>Before class</u>: watch Lexis Learn Caselaw Tools (7 minutes) and Citator Basics (9 minutes); Westlaw Cases – Basic (7 minutes) and Citators – Basic (7 minutes)</p> <p>Complete Case Short Form Exercises, <u>due on Canvas by September 13 at 10:00 am</u></p> <p><u>After class</u>: complete ICW exercise 5</p>
4	September 18	Researching statutes, legislative history, and administrative regulations; statute citations	<p><i>A Lawyer Writes</i>, 33-43 (Reading statutes)</p> <p><i>Researching the Law</i>, 109-134 (Statutes and Court Rules, Federal Legislative History and Administrative Regulations)</p> <p><i>The Bluebook</i>, Rules B.12 and 12, Table 1</p>	<p><u>Before class</u>: watch Lexis Learn Statutory Research Basics (9 minutes), Administrative Law Research (8 minutes), and Legislative History Research (9 minutes); Westlaw Statutes – Basic (5 minutes)</p> <p>Complete Statute Citation Exercises, <u>due on Canvas by September 18 at 10:00 am</u></p> <p><u>After class</u>: complete ICW exercises 6, 7, and 8</p>
	September 20	Governing rule; organizing your research; one legal argument; finishing your research	<p><i>A Lawyer Writes</i>, 61-97 (Finding Your Argument, Organizing Your Legal Authority, One Legal Argument)</p> <p><i>Researching the Law</i>, 136-144 (Research Flowcharts)</p> <p><i>Legal Research Process Chart</i> (on Canvas)</p>	<p>Unit 1 Assessment will be released on Friday, September 22, at 8 a.m., and is due Sunday, September 24, by 11:59 p.m. (upload to Canvas)</p>

			<p><i>When to Stop Researching</i> (on Canvas)</p> <p>Q&A on Unit 1 Assessment</p>	
<i>Unit 2: Constructing a Legal Argument (CREAC)</i>				
5	September 25	<p>Rules and rule synthesis; an introduction to the Plain English movement</p> <p>Microsoft Word tutorial</p>	<p><i>A Lawyer Writes</i>, 3-14 (How Attorneys Communicate) and 99-112 (Explaining the Law: Rules)</p> <p><i>Plain English for Lawyers</i>, 3-6</p> <p><i>Welcome to our Gender-Neutral Future</i> (on Canvas)</p>	<p>Bring computers to class for Microsoft Word tutorial</p>
	September 27	<p>Introduction to the Unit 2 Assessment (Discussion Section) (on Canvas)</p> <p>Case illustrations</p>	<p><i>A Lawyer Writes</i>, 113-32 (Explaining the Law: Case Illustrations)</p> <p><i>Plain English for Lawyers</i>, 7-20 (Omit surplus words)</p> <p><i>The Bluebook</i>, Rules B6 and 6 (Abbreviations, numerals, and symbols) and B7 and 7 (Italicization)</p>	<p>Begin researching the Clean Water Act on your own (no collaboration with others).</p> <p><u>Complete the Research Findings Report (on Canvas) and bring your research results to class on Monday, October 2.</u></p> <p><u>Complete <i>Plain English</i> Exercises 1-4, due on Canvas by September 27 at 10:00 am</u></p>
6	October 2	<p>Application/Analysis</p> <p>Research workshop</p>	<p><i>A Lawyer Writes</i>, 141-61 (Applying the Law)</p> <p><i>Plain English for Lawyers</i>, 23-26 (Use strong verbs)</p> <p><i>The Bluebook</i>, Rules B8 and 8 (Capitalization)</p>	<p>Complete <i>Plain English</i> Exercise 6, <u>due on Canvas by October 2 at 10:00 am</u></p>
	October 4	Counter-analysis	<p><i>A Lawyer Writes</i>, 163-74 (Applying the Law: Counter-Analyses)</p> <p><i>Plain English for Lawyers</i>, 27-32 (Use the active voice)</p>	<p>Complete <i>Plain English</i> Exercise 8, <u>due on Canvas by October 4 at 10:00 am</u></p>

7	October 9	No class—Fall Break		
	October 11	Organizing your application of the law; conclusions; short sentences; choosing words carefully	<p><i>A Lawyer Writes</i>, 175-84 (Organizing Your Application, Conclusions)</p> <p><i>Plain English for Lawyers</i>, 33-38 (Use short sentences)</p> <p><i>Plain English for Lawyers</i>, 39-41, 55-68 (Choose your words carefully)</p>	Complete <i>Plain English Exercises</i> 10 and 13, <u>due on Canvas by October 11 at 10:00 am</u>
8	October 16	The Discussion Section; outlining the Discussion Section	<p><i>A Lawyer Writes</i>, 211-20, 224-27</p> <p>Workshop on outlining the Discussion Section</p>	
	October 18	In class Unit 2 citation workshop		Unit 2 Assessment is due on Sunday, October 22, by 11:59 p.m. (upload to Canvas)
<i>Unit 3: Applied Legal Analysis (The Office Memorandum)</i>				
9	October 23	Introduction to the Unit 3 Assessment (Office Memorandum) (on Canvas)	<p><i>Plain English for Lawyers</i>, 71-84 (Use commas carefully and correctly)</p> <p><i>The Bluebook</i>, B3 and 3.2-3.3 (Sections and paragraphs)</p>	
	October 25	Writing the Question Presented and Brief Answer	<p><i>A Lawyer Writes</i>, 229-44</p> <p><i>Plain English for Lawyers</i>, 87-102 (Punctuate carefully and correctly)</p>	<p>Draft a Question Presented and Brief Answer for the Office Memorandum. Bring your drafts to class on Monday, October 30.</p> <p>Complete <i>Plain English Exercise</i> 18, <u>due on Canvas by October 25 at 10:00 am</u></p>
10	October	Writing the Statement	<i>A Lawyer Writes</i> , 245-57	

	30	of Facts and Conclusion to the Office Memorandum	In-class workshop on the Question Presented and Brief Answer	
	November 1	The place of policy in legal arguments	<i>A Lawyer Writes</i> , 185-92 Outlining workshop for the Unit 3 Assessment	
11	November 6	Editing your writing	<i>A Lawyer Writes</i> , 259-72 In-class Unit 3 citation workshop	
	November 8	Polishing your writing	<i>A Lawyer Writes</i> , 272-83 Question and Answer session on the Unit 3 Assessment	First draft of Unit 3 Assessment is due on Saturday, November 11, by 11:59 p.m. (upload to Canvas) Final draft of Unit 3 Assessment is due one week after your individual conferences, by 11:59 pm (upload to Canvas)
12	November 13	No class—30 minute conferences on your draft Office Memorandum		
	November 15	No class—30 minute conferences on your draft Office Memorandum		
<i>Unit 4: Expressed Legal Analysis (Supervisor-Staff Attorney Meeting)</i>				
13	November 20	How to explain your analysis to a supervisor	<i>Presenting Your Legal Research to a Partner</i> (on Canvas)	
	November 22	No class		
14	November	No class—15 minute		

	27	Supervisor-Staff Attorney meetings		
	November 29	No class—15 minute Supervisor-Staff Attorney meetings		
15	December 4	Final class—Course evaluations and a look ahead	<i>Advanced Legal Writing: Metaphor</i> (on Canvas)	

Unit 1 Outcomes – Systems of law and finding the law

1. Describe the structure, components, and functions of legal systems in the United States.
2. Describe the relative weight of different types of primary and secondary authority.
3. Demonstrate efficient, thorough, and deliberate research processes for primary and secondary authority in federal and state jurisdictions.
4. Practice proper *Bluebook* citation format with constitutions, statutes, and cases.

Unit 2 Outcomes – Constructing a legal argument: The Discussion Section

1. Identify sources of authority relevant to a complex fact pattern, including constitutional provisions, statutes, regulations, and rules of common law.
2. Identify legal issues within a complex fact pattern when given a legal issue.
3. Demonstrate analogical reasoning skills to analyze the potential outcomes of a legal dispute.
4. Practice using key principles of Plain English to express your analysis clearly and concisely.
5. Practice proper *Bluebook* citation format with constitutions, statutes, and cases.

Unit 3 Outcomes – Applied legal analysis: The Office Memorandum

1. Identify sources of authority relevant to a complex fact pattern, including constitutional provisions, statutes, regulations, and rules of common law.
2. Identify material facts within a complex fact pattern when given a legal issue.
3. Demonstrate rule-based reasoning skills to analyze the potential outcomes of a legal dispute.
4. Apply statutes, cases, regulations, and other forms of primary authority to analyze the potential outcomes of a legal dispute.
5. Identify and dismiss counter-arguments.
6. Practice using key principles of Plain English to express your analysis clearly and concisely.
7. Practice proper *Bluebook* citation format with constitutions, statutes, and cases.

Unit 4 Outcomes – Expressed legal analysis: Supervisor-staff attorney meeting

1. Practice oral presentation skills.
2. Identify legal research practice tools