

Legal Research and Writing: An Integrated Approach
Syllabus
Summer 2023
Professor Greg Johnson

Office: Old Schoolhouse (Legal Writing/ASP Building) Room 205
Office Hours: Tuesday, 3:00-4:00 pm
Thursday, 3:00-4:00 pm
By appointment (email me at gjohnson@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 (Conclusion/Rule/Rule Explanation/Analysis/Conclusion) and researching a project from start to finish. We also introduce the key principles of writing in plain language 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 and tribal 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 language 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. Christine Coughlin, et al., *A Lawyer Writes: A Practical Guide to Legal Analysis* (3d ed. 2018).
2. Richard C. Wydick & Amy Sloan, *Plain English for Lawyers* (6th ed. 2019).
3. 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 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, but only after you submit a draft for my review. You can contact Professor York at WritingSpecialist@vermntlaw.edu for an appointment.

Grades:

The grade distribution Legal Research and Writing is as follow:

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|---|-----|
| (1) Unit 1 (Research and citation exercise) (due on June 14) | 20% |
| (2) Unit 2 (Discussion Section) (due on June 26) | 20% |
| (3) Unit 3 (Office Memorandum) (The ungraded first draft is due on July 15; the graded final draft is due one week after our individual conference.) | 40% |
| (4) Unit 4 (Oral skills exercise) (week of July 24) | 10% |
| (5) Class Participation | 10% |

Class participation includes attending classes, participating in class discussion, meeting all deadlines, and completing all the assignments listed in the class assignment schedule below in a timely manner.

Attendance:

Pursuant to Vermont Law and Graduate School academic regulations, students who are absent from more than four regularly scheduled classes will be automatically withdrawn from the course with a grade of F-Wd.

Class Assignment Schedule:

Unit 1: What is Law? (And How to Find It)

Wednesday, May 31

An introduction to American legal systems

A Lawyer Writes, 15-22 (Sources of Law) (through “Weave a Tapestry”)

Legal Research, An Introduction

Constitution of the Standing Rock Sioux Tribe (on Canvas)

The Bluebook, review ix-xvi (Table of Contents), read 1-4 (Introduction and Rule B1.1) and Rules B11 and 11

Assignments:

1. Install (free to you) Microsoft Office 365 from VLS’s IT website if you do not already have it.
2. In a paragraph of 100-150 words, compare/contrast the Preambles of the United States Constitution and the Constitution of the Standing Rock Sioux Tribe.
Due on Sunday, June 4, by 11:59 pm (upload to Canvas)

Friday, June 2 (make-up class at 9:00-10:15 am)

Hierarchies of authority; an introduction to *stare decisis*; legal research process

A Lawyer Writes, 22-31 (Systems of law)

Legal Research Process Chart (on Canvas)

United States v. Cooley, ___ U.S. ___, 141 S.Ct. 1638 (2020). (on Canvas).

June Med. Servs. v. Russo, ___ U.S. ___, 140 S.Ct. 2103 (2020). (on Canvas).

The Bluebook, Rules B2, B10.1.1, 10.2, and Table 6 (Case names in citations)

Friday, June 2 (regular class at 10:30 am)

Reading and researching statutes

A Lawyer Writes, 33-43 (Reading statutes)

Researching Statutes

United States Constitution, Art. VI, cl. 2 (Supremacy Clause)

McGirt v. Oklahoma, ___ U.S. ___, 140 S.Ct. 2452 (2020). (on Canvas).

The Bluebook, Rules B.12.1.1, 12.1-12.3.2 (Citing statutes)

Monday, June 5

9:00-10:00 am: Westlaw training (Oakes 210)

10:30 Class: Reading and researching judicial opinions
A Lawyer Writes, 45-59 (Reading opinions)
Researching cases
The Bluebook, Rules B10.1.2-1.3, 10.3-10.5, Table 1 (Reporter, court, and year)

Wednesday, June 7

9:00-10:00 am: Lexis training (Oakes 210)

10:30 Class: Finding your argument; case research (continued)
A Lawyer Writes, 61-72 (The governing rule)
Case research (continued)
Matter of Gentile, 15 Am. Tribal L. 469 (Navajo Nation 2019). (on Canvas)
The Bluebook, Rules B10.1.5-1.6 and 10.6-10.7 (Parenthetical information)
SCOTUS (cleaned up) (on Canvas)

Friday, June 9

Organizing your legal authority; leveraging secondary sources
A Lawyer Writes, 73-91 (Organizing your legal authority)
Using research citators
[*Secondary Sources Research Guide*](#)
The Bluebook, Rules B10.2, B12.2 10.9, 12.10 (Short form cites)

Monday, June 12

One legal argument; researching regulations; avoiding plagiarism
A Lawyer Writes, 93-97 (One legal argument) and 133-39 (Avoiding plagiarism)
Researching regulations
When to Stop Researching (on Canvas)
The Bluebook, Rules B14 and 14.1-14.2 (Citing administrative regulations)

Unit 1 Assessment due on Wednesday, June 14, by 11:59 pm (upload to Canvas)

Unit 2: Constructing a Legal Argument (CREAC)

Wednesday, June 14

Explaining the law: Rules and rule synthesis (The R of CREAC)

An introduction to the plain language movement

A Lawyer Writes, 3-9, 99-112

Plain English for Lawyers, 3-6

The Bluebook, Rules B1.3 and 1.5 (Parenthetical information in case citations)

Citation Parentheticals (on Canvas)

Friday, June 16

Introduction to the Unit 2 Assessment (Discussion Section) (on Canvas)

Explaining the law: Case illustrations (The E of CREAC)

A Lawyer Writes, 113-32

Plain English for Lawyers, 7-20 (Omit surplus words)

The Bluebook, Rules B6 and 6 (Abbreviations, numerals, and symbols)

Document Template (on Canvas)

Assignments:

1. Begin researching the Clean Water Act on your own (no collaboration with others). Bring your research results to class on Wednesday, June 21.
2. Complete *Plain English* Exercises 1-4 (on Canvas) and bring your edits to class.

Monday, June 19

No Class – Juneteenth

Wednesday, June 21

Research workshop; Applying the law (The A of CREAC)

Research Workshop on the Clean Water Act

A Lawyer Writes, 141-61

Plain English for Lawyers, 23-26 (Use strong verbs)

The Bluebook, Rules B8 and 8 (Capitalization)

Assignment: Complete *Plain English* Exercise 6 (on Canvas) and bring your edits to class.

Friday, June 23 (make-up class at 9:00 am)

Applying the law: Counter-analysis

A Lawyer Writes, 163-77

Plain English for Lawyers, 27-32 (Use the active voice)

Brainstorming session on the Unit 2 Assessment

Assignment: Complete *Plain English* Exercise 8 (on Canvas) and bring your edits to class.

Friday, June 23 (regular class at 10:30 am)

The Conclusion to your legal argument (the first and last C of CREAC)

A Lawyer Writes, 179-84

Plain English for Lawyers, 33-38 (Use short sentences)

Citation workshop for the Unit 2 Assessment

Monday, June 26

Policy (The hidden P of CREAC!)

Question and Answer on the Unit 2 Assessment

A Lawyer Writes, 183-92

Plain English for Lawyers, 39-41, 55-68 (Choose your words carefully)

Assignment: Complete *Plain English* Exercises 10 and 13 (on Canvas) and bring your edits to class.

Unit 2 Assessment, the Discussion Section, due on Monday, June 26, by 11:59 pm (upload to Canvas)

Unit 3: Applied Legal Analysis (The Office Memorandum)

Wednesday, June 28

Introduction to the Unit 3 Assessment (Office Memorandum) (on Canvas)

Plain English for Lawyers, 71-84 (Use commas carefully and correctly)

The Bluebook, B3 and 3.2-3.3 (Sections and paragraphs)

Friday, June 30

Writing the Question Presented and Brief Answer

A Lawyer Writes, 229-44

Plain English for Lawyers, 87-102 (Punctuate carefully and correctly)

Assignments:

1. Draft a Question Presented and Brief Answer for the Office Memorandum by class on Monday, July 10. Bring your drafts to class.
2. Complete *Plain English* Exercise 18 (on Canvas) and bring your edits to class.

SUMMER BREAK—JULY 3-7

Monday, July 10

Writing the Statement of Facts and Conclusion to the Office Memorandum

A Lawyer Writes, 245-57

In-class workshop on the Question Presented and Brief Answer

Wednesday, July 12

Editing your Memorandum

A Lawyer Writes, 259-72

Outlining workshop for the Unit 3 Assessment

Friday, July 14

Polishing your writing

A Lawyer Writes, 272-80

Citation workshop for the Unit 3 Assessment

First draft of Office Memorandum due on Saturday, July 15, by 11:59 pm (upload to Canvas)

Monday, July 17

No Class— 30 minute conferences on your draft Office Memorandum

Wednesday, July 19

No Class— 30 minute conferences on your draft Office Memorandum

Final draft of Office Memorandum is due one week after your individual conferences, by 11:59 pm (upload to Canvas)

Unit 4: Expressed Legal Analysis (Supervisor-Staff Attorney Meeting)

Friday, July 21

How to explain your analysis to a supervisor
Presenting Your Legal Research to a Partner (on Canvas)

Monday, July 24

No Class— 15 minute Supervisor/Staff Attorney meetings

Wednesday, July 26

Final Class—Course evaluations and a look ahead
Advanced Legal Writing: Metaphor (on Canvas)

See next page for Unit Outcomes

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, state, and tribal jurisdictions.
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 2 Outcomes – Constructing a legal argument: legal organization and IREAC

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