

Vermont Law School – Spring 2018

LEGAL WRITING II Theory & Practice REQ 7125.05

CANNABIS LAW: In the Weeds of a Budding Legal Issue

Prof. Linda J. Hiemer

Learning Associates (TAs): Daniel Wilcox and Rachel Hanson

INTRODUCTION AND OVERVIEW

Just like the lifecycle of the cannabis plant, this course is divided into three (3) Stages: 1. Germination/Seedling; 2. Vegetation; and 3. Flowering. The Germination Stage helps you develop/improve your critical analyzing, reading, and thinking skills, as these are the foundational roots for good legal writing and communicating. The Vegetation Stage adds critical organizing and objective/predictive writing skills. Finally, in the Flowering Stage, you transition to researching, persuasive writing, and oral advocacy. This course culminates with an oral presentation during the week ending 420!

ALERT: Learning is dynamic. To complete each Stage in the Course successfully and respond to unexpected environmental factors, feedback from students (which I encourage), and possible changes to law or policy, this Syllabus and Assignments/Activities may change. I will do my best to notify you in a timely manner of any changes/updates. Please check TWEN regularly.

SIMULATION

This is a class for which you receive a grade and credit upon successful completion. Nevertheless, VLS provides practical experiences throughout the curriculum to prepare you for practice and to enhance learning. Consequently, we will role play. You have been selected as a Student Associate (“SA”) in the Law Firm of Steven Holmes, LLP. Your instructor serves as a partner and director of SA training & development. During the course, you will likely hear from other members of the firm, to include Learning Associates (aka “TAs”). Additionally, other firm “partners” may attend live or virtually to share insights or assign firm projects. You will even be asked to track/record your time (“billable hours”) for one or more of the assignments (that was actually a recommendation for a practical exercise from one of your Learning Associates!).

OUTCOMES

“Outcomes” are statements of what you should know, do, and value at the end of a “chunk” of learning. I have attached as Appendix A the Outcomes at the VLS JD Program, Course, and course topic (Stage) levels respectively. All the learning activities in this course are designed to help you achieve the stated Outcomes. Hopefully, the Outcomes give you a sense of the “why” behind the activities and guide you in self-directed learning and planning. In turn, the assignments you submit provide evidence as to whether you have achieved an Outcome(s) and of areas for improvement or development.

Assignment/Activity	Due Date	Weight	Stage
Pre-class Position Statement on Legalization	January 9	NG*	Germination
1. Case Brief <i>Gonzales</i>	January 11	5%	Germination
2. Case Brief <i>U.S. v. McIntosh</i>	January 18	5%	Germination
3. Synthesize <i>Cole Trio</i>	January 23	5%	Germination
4. Citation Exercise	February 8	5%	Vegetation
5. Objective Legal Memo	February 11	20%	Vegetation
6. Memo of Law – First Cut	March 8	15%	Flowering
7. Memo of Law – Top Shelf Cut	April 2-9	25%	Flowering
8. Multistate Performance Test (in class)	April 10	NG*	Flowering
9. Oral Presentations	April 16-19	10%	Flowering
10. CALI Lessons (as assigned)	Ongoing	NG*	All
11. Class Engagement	Ongoing	10%	All
12. “Billable Hours” Exercise	TBA**	NG*	TBA

*Please note that although certain assignments/activities may be listed as “not graded” (“NG”), they aid in the acquisition of knowledge and skills you will be expected to demonstrate in graded assignments and in practice and are considered in determining your grade for Class Engagement.
 **To be announced.

FORM OF WRITTEN ASSIGNMENTS

Unless otherwise announced, written assignments must be typed on 8.5 x 11 inch paper and must be **double-spaced**, with the typeface either Times New Roman 12-point or Arial 10-point. Margins must be one inch on all sides. **Page numbers must appear at the bottom center** of each page. The first word of each paragraph must be indented. Written assignments not conforming to these requirements may be rejected and returned to the student or may result in a lower grade. Please follow the Bluebook for citation format. Why so strict? It’s not substance-induced paranoia; it’s to model the stringent requirements of many court systems and law firms. As legal practitioners, we are held to a heightened expectation of attention to detail and adherence to rules. You will receive guidance on each assignment’s specific expectations (including number of pages or word count, unique formatting, etc.) in a timely manner throughout the course.

“Class Engagement” includes, but is not limited to, class attendance and preparation, participation in class discussions, efforts to give/receive feedback, demonstration of professionalism (respect for colleagues), satisfactory completion of “not graded” assignments, and preparation for and participation in conferences with your professor. You cannot engage in class if you do not attend regularly, so **class attendance is expected and appreciated**.

TIMELY SUBMISSION OF ASSIGNMENTS

You are responsible for submitting assignments at the proper time and place. Any student who fails to submit an assignment at the proper time without permission is subject to **a late penalty of half a letter grade per day**. Assignments submitted **more than five days late will receive an F**. Unless I direct you otherwise, please submit all written assignments via TWEN on the due date.

THE HONOR CODE

The Vermont Law School Honor Code governs your work and conduct in Legal Writing II. Whenever you use the words or ideas of another writer, you should acknowledge the original source. Cite the original source even if you put another person's ideas in your own words. The assignment you submit must be your own work product. Unless specifically instructed by your professor (for peer feedback and collaboration), you may not give an outline or a completed assignment to another student. Strive to be "top shelf"!

MULTISTATE PERFORMANCE TEST

During this course, you will take a practice version of the Multistate Performance Test (MPT), a component of the Uniform Bar Exam (UBE). This test **will not be graded, but aids in your achievement of course outcomes and in preparation for the bar exam**. The purpose of taking it is to acquaint you with the degree of difficulty that you can expect from questions on the bar exam. Although the test is ungraded, it is **a mandatory component of this course**.

COURSE MATERIALS

1. Helene Shapo, Marilyn Walter, & Elizabeth Fajans, *Writing and Analysis in the Law* (6th ed. 2d 2013). [Referred to as "Shapo"]
2. Harvard Law Review et al., *The Bluebook: A Uniform System of Citation* (20th ed. 2015) (from Legal Writing I). [Referred to as the "Bluebook"]
3. Richard C. Wydick, *Plain English for Lawyers* (5th ed. 2005) (from Legal Writing I)(referred to as "Wydick")
4. Additional Materials: Posted on TWEN, handed out in class, or assigned as needed.

Course Map

Class/ Date	Stage/Topic	Assignments/Activities (Should be completed <u>before</u> class unless otherwise noted):
<p>1 Jan 9</p>	<p><u>Germination Stage:</u> Ideal Environment for Seeds – Critical Analysis</p> <p>Discuss expectations for Course and Assignments ##1 & 2</p>	<p>Readings: Shapo Ch. 1 pp. 1-27; Ch. 2 pp. 39-85 (NOTE: Most of the material in these readings reinforce concepts introduced in Legal Writing I to help you build your proficiency and self-reflect on your competency with the foundational knowledge expected for Legal Writing II. The Exercises within the readings are not assigned, but you are encouraged to review them and self-assess your knowledge of the concepts, read, and ask your professor clarifying questions.)</p> <p>PRE-CLASS ASSIGNMENT (not graded): In approximately 100 words (about a paragraph), write a position statement for or against the legalization of marijuana under federal law. Bring your typewritten position statement to class and be prepared to share it with the class. You are not required to conduct research or expected to provide citation to sources (unless you use the words or ideas of another source, but I am primarily interested in your words and ideas!). Please observe formal grammar mechanics (e.g. it's not a <i>tweet</i> or a text message).</p>

<p>2 Jan 11</p>	<p><i>"Be it wheat or marijuana,"</i></p> <ol style="list-style-type: none"> 1. Case Briefs for Legal Writing & Practice 2. Apply basic negotiation techniques and strategies (January 13 Negotiation and Drafting Workshop ("NDW")) 3. Draft a basic settlement agreement (NDW"). <p>Takeaway: <i>"Thinking like a Lawyer" means processing information through the lens of the law. Put on Your Legal Glasses!</i></p>	<p>Readings: Shapo Ch. 2 pp. 39-85</p> <p>CALI LESSON (link on TWEN): How to Brief a Case (569)¹ <i>OPTIONAL</i> (but encouraged)</p> <p>ASSIGNMENT #1 Due: Please locate and read the memo with instructions and expectations for completing Assignment #1 posted on TWEN under the Assignments tab.</p> <p>REMINDER: January 13, 2018 Negotiation & Drafting Workshop</p>
<p>3 Jan 16</p>	<p>The Feedback Loop</p> <p>"Keep It 100"!</p> <ol style="list-style-type: none"> 1. Debrief NDW and review. 2. Class Exercise: feedback is fun! 3. Brief a 2d case in the context of legal analysis. 4. Discuss expectations Assignment #2 due Jan. 18). 	<p>Readings: Shapo, Ch. 3 pp. 87-110 and review class-notes to reinforce concepts discussed in the first week. Bring your NDW Settlement Agreement to Class!</p> <p>CALI LESSON (link on TWEN): Statutory Interpretation (1058)</p> <p>ASSIGNMENT #2: Please locate and read the memo with instructions and expectations for completing Assignment #2 posted on TWEN under the Assignments tab.</p>

¹ Throughout the Course Map, you will see CALI Lessons assigned. The Name/Title of the CALI Lesson is included as well as a 3 or 4 digit number within parenthesis (e.g. (569) in Class 1). That number is the designation provided by CALI and serves to identify the proper CALI Lesson in addition to the title.

<p>4 Jan 18</p>	<p>The Mellow Buzz of Synthesis and Large-scale Organization - What's with the acronyms? IRAC, TRAC, CRAC, CREAC Discuss Goals of Assignment #3: Summary of <i>Cole Trio</i> (due Jan.23)</p>	<p>Readings: Shapo Ch. 4 pp. 111-27 Please locate and read the memo with instructions and expectations for completing Assignment #3 posted on TWEN under the Assignments tab. Note: you are not required to have read the three (3) "Cole Memos" (<i>Cole Trio</i>) attached to Assignment #3 prior to this class, but you will need to read them in order to complete Assignment #3 due on Jan. 23.</p> <p>CALI LESSON (link on TWEN): Learning Legal Analysis (562)</p> <p>ASSIGNMENT #2 Due Today by 10:00 a.m. (on TWEN)</p>
<p>5 Jan 23</p>	<p>"Gram Bag Special" [Let's emphasize the <i>gram</i> in <i>grammar</i>.] Self-Reflections & Self-assessment; Grammar Refresher.</p>	<p>Readings: Shapo Ch. 10 pp. 225-244; Appendix A, pp. 499-518 (Note: Readings are designed as a grammar refresher and to familiarize yourself with the resources for grammar mechanics. You also have Wydick's book from LW I. Keep Wydick and Shapo handy throughout law school and beyond.)</p> <p>CALI LESSONS (link on TWEN): Punctuation & Grammar Basics (585) ASSIGNMENT #3 Due: <i>The Cole Trio</i></p>
<p>6 Jan 25</p>	<p><u>Vegetation Stage:</u> Small-Scale Org Counter-Culture (anticipate and address counter-arguments) Discuss SA Clarifying Ques. Re Assignment #5</p>	<p>Readings: Shapo Ch. 5, pp. 135-150. Locate and Read: U.S. DOJ/DEA <i>The Dangers and Consequences of Marijuana Abuse</i> (2014) Student Associate Project (SAP) from Managing Partner (MP) Activities: TWEN Receive project from MP, plan Assignment #5 from MP's instructions, outline preliminary issues, formulate clarifying questions for MP (bring to class)</p>
<p>7 Jan 30</p>	<p>Objective Office Memo- The <i>CBD</i> of Legal Writing</p>	<p>Readings: Shapo Chs. 6-7, pp. 155-184 CALI LESSON (link on TWEN): Ethical Considerations (8993)</p>

<p>8 Feb 1</p>	<p>NO CLASS</p> <p>Learning Associates office hours posted on TWEN.</p>	<p>Readings Shapo Ch. 1, pp. 28-35; VLS Honor Code. CALI LESSONS (link on TWEN): 1. Plagiarism (119); and 2. Citation Form for Legal Memos (561)</p> <p>Please locate Assignment #4 posted on TWEN under the Assignments tab.</p> <p>Continue preparing Office Memo (Assignment #5).</p>
<p>9 Feb 6</p>	<p>“BLUE DREAM” This strain is out of CITE!</p> <p>Bluebook 201</p> <p>Guest Lecturer: Learning Associates (TA) to discuss citations & Assignment #4</p> <p>Touch Base on Assignment #5: Office Memo and Tips for Success</p>	<p>Readings: Shapo Ch. 8, pp. 189-202; continue preparing Office Memo</p> <p>Assignment #4 Due. No later than (NLT) Feb. 8 5pm on TWEN</p>
<p>10 Feb 8</p>	<p>Fine Art of Pruning <i>Everything you write is a tangible reflection of you, so . . . get it “Write”!</i></p>	<p>ASSIGNMENT #4 DUE TODAY.</p> <p>REMINDER ASSIGNMENT #5 OBJECTIVE LEGAL MEMO DUE: no later than 5 pm Feb. 11</p>
<p>11 Feb 13</p>	<p><u>Flowering Stage:</u> Art of Persuasion – The THC of Legal Writing</p> <p>Another acronym? Yep. PREAC</p>	<p>Readings: Shapo, Ch. 15, pp. 349-366; Additional readings (TWEN)</p> <p>Memo of Law (Assignment #6/7) Assigned (materials will be posted on TWEN and explained in class)</p> <p>Project Planning/Time Management Tips</p>
<p>12 Feb 15</p>	<p>Creative Cultivation: Research, Outline, Building the Framework/Theory of the Case – An iterative process</p>	<p>CALI LESSONS (link on TWEN)</p> <ol style="list-style-type: none"> 1. LEGAL RESEARCH 101 (568) and 2. Legal Research Methodology (567) 3. Hold ‘Em, Fold ‘Em (763)
<p>13 Feb 20</p>	<p>Purple Haze? Open for Clarification/Catch Up</p>	<p>Continue Researching and Drafting Outlines; Begin working on your Argument Section</p>

14 Feb 22	Avoid Paranoia! NO CLASS	Continue working on your Argument Section – Check for Gaps! Where should I be? Project Plan Reality Check
15 Feb 27	“Roll ‘Em”: the Art of Storytelling to Engage your Audience - Statement of Facts	Readings: Shapo, Ch. 15, pp. 370-385; Additional readings (TWEN) CALI LESSON (link on TWEN): Stating Facts (objective vs. persuasive) (586)
16 Mar 1	Blunts: What’s your Point? Crafting Effective Point Headings + Issue Statements	Readings: Shapo, Ch. 15, pp. 385-396 CALI LESSONS (link on TWEN): Issue Statements (587)
17 Mar 6	Plant Cloning: How to use your best quality work product for your First Cut and to “Clone” (e.g apply knowledge and skills acquired in your readings, activities, and lectures to Assignment #6: First Cut)	Self-Assessment Checklist: on TWEN Continue preparing Assignment #6 (“First Cut”)
18 Mar 8	Those Sticky Trichomes! Make sure your First Cut (Assignment #6 “shines like trichomes” on a mature leaf)	Assignment #6 First Cut: Memo of Law Due no later than Mar 8 11:59 p.m. (submitted/uploaded on TWEN)
19 Mar 13	Spring Break	Kick Back and Be Safe!
20 Mar 15	Spring Break	Kick Back and Be Safe!
21 Mar 20	Fighting Swans Collective - The Debrief of our First Cuts	Readings: On TWEN Review, print, and bring to class the Self-Assessment Rubric/Checklist to prepare for individual conferences. Activities: Discuss common challenges observed in First Cut Assignment #6 and expectations for individual conferences.

22 Mar 22	NO CLASS	Individual conferences Scheduled March 21-28(TBA)
23 Mar 27	NO CLASS	Individual conferences Scheduled March 21-28(TBA)
24 Mar 29	Polish: Advanced Critical Proofreading Skills	Readings: Shapo Chs. 9, pp. 202-222
25 Apr 3	Harvest Time! Class Topic: Lessons Learned Assignments ##6/7 and More Tips from the Trenches	Top Shelf Cut (Assignment #7) Due between April 2-9 (12 days after your individual conference)
26 Apr 5	Top Shelf Cut! MPT – Prof. Joe Brennan, Director of Academic Support Programs, Guest Lecturer	Top Shelf Cut due this week (12 days after conference) Readings: MPT; time management (posted on TWEN)
27 Apr 10	Take MPT Practice Exam	IN CLASS MPT
28 Apr 12	Edibles! Oral Presentations Make Up/Catch Up/Clarify	Readings: Shapo Ch. 17, pp. 479-494
29 Apr 17	Oral Presentations Calm, Cool, & Collected	TBA
30 Apr 19	Oral Presentations Calm, Cool, & Collected	TBA
APRIL 20!	It's 4:20 Somewhere!	NEED I SAY MORE? THANK YOU AND CONGRATULATIONS!

APPENDIX A – Legal Writing II: Theory & Practice REQ 7125 Program, Course, & Topic Outcomes VLS Juris Doctor Program Outcomes (POs)

Upon completion of this program, Graduates will be able to:

PO 1	Legal Literacy: Analyze fundamental U.S. law and the role of law in society.
PO 2	Legal Institutions: Identify, define, and engage institutions and individuals within the legislative process, appropriate administrative agencies, court, and other governmental entities, that shape and influence development of law and policy.
PO 3	Problem Solving: Demonstrate knowledge of and the ability to effectively apply basic legal practice skills. They should be able to diagnose legal problems, identify solutions, and set strategy for communicating, advocating for, and achieving those solutions.
PO 4	Independent learning capacity: Learn independently, including the ability to assess personal performance by recognizing strengths and weaknesses and developing strategies for improvement.
PO 5	Professional Responsibility and Ethics: Work respectfully, ethically, and productively with diverse clients and legal professionals. They should possess the skills needed to recognize and resolve dilemmas in an ethical manner.
PO 6	Bar Exam Skills: Graduates will possess the skills needed to successfully perform on the bar examination taken.

Course Outcomes (COs) (mapped back to POs above):

Upon completion of this course, you will be able to:

CO 1	(POs 1-4) Use basic principles of good legal writing to communicate effectively with diverse audiences.
CO 2	(POs 4-6) Employ techniques for time-management, self-reflection, feedback, and collaboration necessary for academic study, bar exam, and professional practice.
CO 3	(POs 1-3,5) Apply objective writing techniques in a variety of factual and legal scenarios.
CO 4	(POs 1-3,5) Demonstrate persuasive writing techniques to influence an outcome.
CO 5	(POs 2, 3, 5) Explain concepts orally in formal and informal presentations.
CO 6	(POs 5) Demonstrate professionalism in legal communication.

Topic Outcomes (TOs) (mapped back to COs above):

Upon completion of each Stage, you will be able to:

Stage 1	GERMINATION (COs 1, 2, 5, 6)
TO 1	Differentiate between primary sources of law (case law and enacted laws).
TO 2	Strategize legal analysis based upon basic concepts regarding jurisdiction, hierarchy, relevance (legal and factual), and weight of authority.
TO 3	Synthesize authorities into legal principles with elements, relevant factors, or exceptions/conditions, as appropriate.
TO 4	Apply techniques for self-assessing, receiving/implementing feedback, and collaborating professionally.
TO 5	Employ strategies to gather facts relevant to legal issues.
TO 6	Demonstrate good writing fundamentals and mechanics.
TO 7	Examine legal materials critically.

Stage 2	VEGETATION (COs 1-3, 6)
TO 1	Discuss a range of possible solutions for a problem including legal, factual, and policy arguments and counterarguments and alternative courses of action.
TO 2	Demonstrate effective time management techniques.
TO 3	Use proper basic citation formatting.
TO 4	Employ a framework for large and small-scale organization.
TO 5	Recognize basic concepts of professionalism as they relate to written communication.
TO 6	Prepare an objective or predictive legal document that uses appropriate authority, tone, and purpose.

Stage 3	FLOWERING (COs 1,2,4-6)
TO 1	Use effective research strategies.
TO 2	Identify ethical obligations in relation to a client, judge, opponents, and society.
TO 3	Utilize legal writing techniques to persuade.
TO 4	Present a persuasive oral argument.
TO 5	Employ strategies to complete a Multistate Performance Test (MPT) as tested on the Uniform Bar Exam.