

Legal Research and Writing: An Integrated Approach
Syllabus & Schedule
Fall 2023
Professor Grant Smith
Online Hybrid JD

Class: Mondays 6:30 pm – 8:10 pm (EST) (class will be held at this time when the Syllabus indicates that class is “Synchronous”; when the Syllabus says “Asynchronous,” there is no live class that week).

Email address: gsmith@vermontlaw.edu

Office Hours: Sundays 6:00-7:00 pm (EST) Thursdays 6:00-7:00 pm (EST) and by appointment (please email me to set up an appointment)

Cell phone: (307) 620-2194

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 IRAC 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 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 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 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, or staff in the Academic Success Program to review your writing (see below).

The Writing Specialist:

Vermont Law 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 at any time, including before you

submit a draft of your work for my review. Contact Professor York at WritingSpecialist@vermontlaw.edu for an appointment.

Grades:

The grade distribution for each Unit Assessment in Legal Research and Writing is as follows:

| | |
|---|-----|
| (1) Unit 1 (Research and Citation exercise) | 20% |
| (2) Unit 2 (Discussion Section of a Memo) | 20% |
| (3) Unit 3 (Office Memorandum) | 40% |
| (4) Unit 4 (Oral skills exercise) | 10% |
| (5) Class Participation | 10% |

Students are responsible for submitting assignments on time. Any student who fails to submit an assignment on time will receive a grade deduction for that assignment. The deduction will equal 10% of the total point value of the late assignment and will be assessed 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 Expectations:

Student Expectations

Coursework

You are expected to review the assigned material by the date under which it is listed, studying and considering that material on your own and participating in activities and assignments presented in each module.

Written 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 and place, and who has not received prior permission to do so, is subject to a late penalty of up to five points per day late. Unless otherwise specified, all assignments are due on Canvas. This late policy does not apply if I have approved an extension because of an emergency or other extenuating circumstances. You must promptly request the extension and inform me of any extenuating personal circumstances that warrant an extension.

Attendance

Pursuant to Vermont Law and Graduate School academic regulations, any student who is absent from more than 20% of regularly scheduled classes shall be automatically withdrawn from the course with a grade of F-Wd. (VLGS Academic Regulations, II.A.1.b).

Honor Code

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Faculty Expectations

My job is to be available to you and to help you succeed in this course and in law school. I am happy to meet over Teams, chat by phone, answer questions via email, and/or meet in person during the residential period. If you'd like to set up a time to speak, please email me and we can arrange a time. **I will not actively monitor the Hallway Discussion forum or the Ask My Professor Page.**

I will be online and available to answer e-mails and other asynchronous inquiries at least five days each week and will endeavor to answer questions within 48 hours. Email is always the best way to reach me. If you have an urgent matter, please text me: (307) 620-2194.

I will post timely announcements as appropriate to this course, including any changes to the schedule or assignments.

Use of Generative AI (e.g., ChatGPT and others)

Legal research and writing are unlike most other academic and professional activities you may have undertaken in the past. Some of the most important skills connected to an attorney's success are to be able to find, evaluate, analyze, and synthesize authority and arguments and to communicate those results effectively. Using tools that complete any of these processes for you before you have become proficient with them on your own – no matter how sophisticated, accurate, or ubiquitous those tools are – will shortcut critical cognitive steps in your legal training and can put you at a significant disadvantage.

Artificial Intelligence (AI) is only going to continue to improve and will impact the practice of law in ways we can't predict yet. Once you have learned on your own to separate relevant information and authority from that which is irrelevant and to formulate, weigh, and communicate the merits and shortcomings of different arguments, you will be operating from a foundation of knowledge and in a strong position to critically evaluate and accept, reject, or modify AI-generated output. One of my goals is to help you build that knowledge foundation so that you can make the most of these profoundly important tools in the future, no matter what they morph into along the way.

In the first semester of law school, though, we're not quite there yet. Therefore, **the use of generative AI (including but not limited to ChatGPT, GPT4-based tools (whether standalone**

or incorporated into a third party platform), or any other product that uses AI to generate blocks of text or answers to questions) is **prohibited** in connection with your work **in all aspects of this class** except in situations where I have expressly given permission to do so. If you aren't sure whether something is permitted, ask.

COURSE SCHEDULE

UNIT 1 – What is Law? (And How to Find It)

Monday, August 28

Topics:

- Introduction / Course Overview
- American Legal Systems
- Hierarchies of Authority
- Legal Research Processes
- Constitution
- Introduction to Citation

Before Class

Read

- Sloan, *Researching the Law*, pages 3-26
- Coughlin, Rocklin, and Patrick, *A Lawyer Writes*, pages 29-31
- [An Issue of Sovereignty](#) (National Conference of State Legislatures, linked)
- Preamble [Constitution of the Standing Rock Sioux Tribe](#) (on page 3, linked)
- Excerpt: *June Med. Servs. v. Russo*, 140 S. Ct. 2103, 2134 (2020). (on Canvas)
- *Bluebook*, ix -xvi, pg. 1-6, Rule 1 (p. 61), R11 (pages 119-120), B11 (page 18)

To Do:

- Install Microsoft 365 from VLGS IT (if you don't already have it)
- Attend the Westlaw training session (Microsoft Teams)
- Attend the Lexis training session (Microsoft Teams)

After Class Exercise:

In a paragraph of 100-150 words, using 12 point black Times New Roman font, compare/contrast the Preambles of the [United States Constitution](#) and the Constitution of the Standing Rock Sioux Tribe. **Due on Canvas by 11:59 pm EST Saturday, September 3**

Friday, September 8 – Burlington Residence, 2:00 – 3:15 pm

Topic: Search Strategies, Leveraging Secondary Sources, Introduction to the Unit 1 Assignment

Topics:

- Search Strategies
- Secondary Sources
- Introduction to Unit 1 Assignment

Before Class:

Read

- *Researching the Law*, pages 27-58, 65-78

Watch

- [Lexis Learn](#) Secondary Sources Module (8 min)
- [Westlaw](#) Secondary Sources Basic (7 minutes)

Review

- *Bluebook*, R15, R16, B15, B16, R4.2, B4

After class:

- Practice researching via the Secondary Sources Exercise
- Practice with [Terms & Connectors searching tutorial](#) (20 min)

Saturday, September 9 – Burlington Residence, 1:40 – 2:55 pm

Topics:

- Reading, Researching and Citing Judicial Opinions

Before class:

Read

- *Researching the Law*, pages 83-96
- *A Lawyer Writes*, pages 45-59

Watch

- [Westlaw](#) Cases Basic (7 min)
- [Lexis Learn](#) Caselaw Tools (7 min)

Review

- *Bluebook*, R10.1-10.5, B10.1- B10.1.3, R6.1, R6.2, Table 6, Table 1

After class:

- Practice citations using [Lexis Interactive Citation Workstation \(ICW\)](#) via exercises 1-3
- Practice researching via the Cases Exercise

Sunday, September 10 – Burlington Residence, 9:20 – 10:35 am

Topics:

- Using Research Citators
- Case citations, con't.

Before class:

Read

- *Researching the Law*, pages 97-109
- *SCOTUS (cleaned up)* [82 OR. ST. B. BULL. 13 \(2021\)](#) (via VLGS HeinOnline)

Watch

- [Lexis Learn](#) Citator Basics (9 min), [Westlaw](#) Citators Basic (7 min)

Review

- *Bluebook*, R10.6-10.7, B1.3, B10.1.5, B10.1.6 (Parenthetical information)
R10.9, B10.2 (cases short forms)

After class:

- Practice citations using [ICW](#) via exercise 5

- Practice researching via the Citators Exercise

Monday, September 11

Topics:

- Reading, Researching and Citing Statutes
- Research and Citing Administrative Branch Materials

Before class:

Read

- *Researching the Law*, pages 109-121, 123-133
- *A Lawyer Writes*, pages 33-43

Review

- *Bluebook*, R12.1-12.3, R12.10, B12.1, B12.1.1, B12.1.2, B12.2, (Citing statutes)
- *Bluebook*, R14.1, R14.2, R14.5, B14 (Citing administrative materials)

Watch

- [Westlaw](#) Statutes Basic (5 min)
- [Lexis Learn](#) Statutory Research Basics (8 min)
- [Lexis Learn](#): Administrative Law Research (8 min)

After class:

- Practice citations using [ICW](#) via exercise 6
- Practice researching via the Statutes Exercise
- Practice researching via the Regulations Exercise
- Start working on Unit 1 Assignment

Monday, September 18

Topics:

- Organizing Research Findings
- Determining the Governing Rule

Before class:

Read

- *Researching the Law*, pages 59-62, 54-57
- *When to Stop Researching* (on Canvas)
- *A Lawyer Writes*, pages, 61-72, 73-91

After class:

- **Unit 1 Assignment due Saturday, September 23, by 11:59 pm (upload to Canvas)**
(25%)

Unit 2: Legal Writing Structures: Constructing a Legal Argument (CREAC)

Monday, September 25

Topics:

- CREAC
- Avoiding Plagiarism
- The Plain English Movement
- Explaining the Law: Sources of Rules and Rule Synthesis
- Explaining the Law: Case Illustrations
- Introduction to the Unit 2 Assignment
- Example 1-A Discussion Section

Before class

Read

- *Plain English for Lawyers*, pages 3-38, 59-67
- *A Lawyer Writes*, pages 3-14, 93-139
- [*Passive Voice*](#) by Laura Da (Poetry Foundation, linked)

Review:

- *Bluebook*, B1.1, R5.1, R6.2, R8 and B5, B8 (block quotes, numbers, capitalization)

After class:

- Prepare for the Unit 2 Discussion Section Assignment (collaboration permitted)

Monday, October 2

Topics:

- Applying the Law: Rule-based Reasoning,
- Applying the Law: Analogical Reasoning
- Counter-Analysis

Before class

Read

- *A Lawyer Writes*, pages 143-61, 163-174

After class:

- Prepare Research Findings Report for the Unit 2 Discussion Section Assignment (collaboration permitted). Bring your Research Findings Report to the next class.

Wednesday, October 11 - 6:30 – 8:10 pm

Topics:

- In-class Legal Research Workshop - Organizing Your Application of the Law

Before class

Read

- *A Lawyer Writes*, pages 175-77

After class:

- Review documents generated from in-class project
- Draft REA of element 1 for the Unit 2 Discussion Memo – bring to next class

Monday, October 16

Topics:

- In-class Writing Workshop on the Discussion Section
- The Discussion Section: Introducing and Connecting Legal Arguments, Editing Workshop

Before class

Read

- *A Lawyer Writes*, pages 179-184, 211 – 227, 259 - 267

In class:

- Draft CREAC for the Unit 2 Discussion Memo; Draft Roadmap/Intro, Headings. and Document Conclusion – Editing Workshop

Discussion Section Assignment due Saturday, October 21, by 11:59 pm (upload to Canvas) (20%)

Unit 3: Applied Legal Analysis (The Office Memorandum)

Monday, October 23

Topics:

- **Introduction to the Office Memorandum Assignment (materials on Canvas)**

Before class

Read

- *Plain English for Lawyers*, pages 39-54

Review

- *A Lawyer Writes*, Appendix B pages 383-390

In class:

- Sign up for your individual unit 3 conference (on Canvas)
- Begin Research Findings Report for the Unit 3 Open Memorandum Assignment (collaboration prohibited).

Monday, October 30

Topics:

- Question Presented and Brief Answer
- Statement of Facts, Document Conclusions
- In-class writing workshop on the Question Presented and Brief Answer, Statement of the Facts

Before class

Read

- *A Lawyer Writes*, pages 229-257

After class:

- Finish/refine draft QP/BA/SF
- Finish Research Findings Report for the Unit 3 Open Memorandum Assignment (collaboration prohibited)

Research Findings Report is due on Saturday, November 4 by 11:59 pm (upload to Canvas).

Monday, November 6

Topics

- In-class Legal Research Workshop
- Workshop on Office Memorandum Outlining
- Incorporating Policy Arguments
- Editing and Polishing

Before class

Read

- *A Lawyer Writes*, pages 185-192, review 259 – 280

In class:

- Workshop and edit CREAC for both issues
- Update and link memo parts: QP/BA, SOF, Discussion, Headings, Document conclusion
- Apply Checklist, *A Lawyer Writes*, pages 281-283
- Review *A Lawyer Writes*, Appendix B pages 383-390
- Consult *Plain English for Lawyers* for guidance

After class:

- **Draft of Office Memorandum Assignment due Saturday, November 11 by 11:59 pm (upload to Canvas)**
- **Final draft of Office Memorandum Assignment is due by 11:59pm within 1 week of individual conferences (35%)** Example: If the conference is at 10am on a Wednesday, the final is due by 11:59pm on the following Wednesday.

Monday, November 13 – Conference Week

No Class—30-minute conferences on your draft Office Memorandum

Monday, November 20 - Conference Week

No Class—30-minute conferences on your draft Office Memorandum

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

Monday, November 27

Topics:

- Explaining Your Analysis to a Colleague
- Legal Research Practice Tools,
- Introduction to the Unit 4 Assignment
- Course evaluations

Before class:

Read

- [Presenting Your Legal Research to a Colleague](#) (Think Like a Lawyer blog, linked)

Review:

- [Court Filings Research Guide](#) (VLGS Library, linked)
- Sample research project intake checklists (on Canvas)
- *Researching the Law*, pages 35-36, 79, 145-149
- Sign up for a Supervisor Meeting (on Canvas)

After class

- Prepare for your Unit 4 Assignment meeting
- Finish course evaluation

Monday, December 4– Supervisor Meeting Week

No Class—15-minute Supervisor-staff attorney meetings

Learning 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 CREAC

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