

Legal Research & Writing  
Professor Catherine Fregosi  
Fall 2024: Section 4  
Tuesday & Thursday, 2:10-3:25  
Oakes 012

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Faculty office hours:

- Drop in: Monday & Wednesday, 9:55-11:10
- By appointment: email me or talk to me after class to set up an alternate time

Course Introduction:

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, 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 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 three Units. In Unit 1, we introduce you to the structure of—and relationship between—American legal systems and legal research systems. Understanding the hierarchy 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/Application/Conclusion) and researching a project from start to finish. We also introduce the key principles of plain language drafting in Unit 2. Unit 3 synthesizes the lessons of the semester with a final writing project using the office memorandum format. All Units include instruction and practice in proper legal citation format.

## 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 outcome of a legal dispute.
7. Demonstrate analogical reasoning skills to analyze the potential outcome of a legal dispute.
8. Apply statutes, cases, regulations, and other forms of primary authority to analyze the potential outcome of a legal dispute.
9. Identify and dismiss counterarguments.
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.

## 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* (4th ed. 2024).
3. Richard C. Wydick & Amy E. Sloan, *Plain English for Lawyers* (7th ed. 2024).
4. Harvard Law Review et al., *The Bluebook: A Uniform System of Citation* (21st ed. 2020).
5. Dionne E. Anthon, *The Bluebook Uncovered: A Practical Guide to Mastering Legal Citation* (free PDF posted on course Canvas page).

## Additional Resources:

In this class, you will learn to use two legal research databases: Lexis Nexis and Westlaw. Both Lexis Nexis and Westlaw also provide online learning tools for students, including videos on a variety of research topics. These videos are a great supplement to the work assigned in this class, but they are not required. If you are interested in using these supplemental resources, you can find them at the links below.

1. [Lexis Learn LRW Supplement](#)
2. [Westlaw LRW Supplement](#)

### Class Teaching Assistants:

This class has two teaching assistants. The TAs are available to meet with you to discuss any aspect of your work for this class. This includes discussing the assigned reading, going over class exercises, help with research, help with drafting, and receiving feedback on course assignments. The TAs are great resources on all things research and writing. They are also highly successful law students who may have additional tips for surviving 1L. You will meet the TAs and receive their contact information in one of our first classes.

### The Writing Specialist:

Vermont Law & 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. Contact Professor York at [WritingSpecialist@vermontlaw.edu](mailto:WritingSpecialist@vermontlaw.edu) for an appointment.

### Honor Code & Code of Conduct:

The Vermont Law & Graduate School Honor Code and Code of Conduct govern your work and conduct in this course. Plagiarism and cheating are prohibited (and unethical). Plagiarism occurs when you take ideas, research, or writing from another source and do not give the source credit. Whenever you use words or ideas from another source, you must acknowledge the original source. Acknowledge the original source even when you are describing ideas or paraphrasing language.

Cheating occurs when you receive unpermitted help on an assignment. You are permitted to seek help from the class teaching assistants and the Writing Specialist. You are permitted to discuss assignments, course reading, etc. with the class teaching assistants. You are permitted to meet with the teaching assistants and the Writing Specialist to discuss your work. You are also permitted to receive written feedback on your work from the teaching assistants and Writing Specialist. So, when does cheating occur? It occurs when you receive unpermitted help on assignments. Unpermitted help includes help from any person other than this course's teaching assistants and the Writing Specialist. This includes friends, parents, partners, other students, etc. You are not permitted to receive feedback from or share your work product with anyone other than the teaching assistants and the Writing Specialist.

In this class, use of generative AI\* to complete any assignment is also an honor code violation. 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,

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\* Definition of Generative AI (generated by ChatGPT on Aug. 21, 2023): Generative AI refers to a branch of artificial intelligence capable of producing novel and creative outputs, such as text, images, music, or other forms of media, often by learning patterns and structures from existing data. In the context of law, generative AI has potential applications in legal document drafting, contract generation, and other creative aspects of the legal profession.

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 disrupt the practice of law in ways we can't yet predict. 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 this class's 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, GPT-4 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.

#### Grading:

Letter grades are based on the course assignments and professionalism. Professionalism includes arriving on time for all classes, appropriate participation in class discussion, quality and completeness of your Unit 3 office memo first draft, meeting all deadlines, and completing all required homework (citation exercises in Units 1 and 2). Pursuant to Vermont Law & 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.

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

Unit 1	Research & Citation Exam	20% of final grade
Unit 2	Discussion Section	20% of final grade
Unit 3	Research Memo	15% of final grade
Unit 3	Office Memo	30% of final grade
	Professionalism	15% of final grade

Submit all course work to Canvas. All assignments must be submitted as .doc or .docx files. PDF files will not be accepted. 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 ten 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

<i>Week</i>	<i>Date</i>	<i>Class Plan</i>	<i>Reading Assignments</i>	<i>Written &amp; Other Assignments</i>
<i>Unit 1: What is Law? (And How to Find It)</i>				
1	August 27	Course introduction	<p>Course syllabus and schedule</p> <p><i>A Lawyer Writes</i>, xxi-xxii (Introduction) and 15-23 (Sources of Law through “Weave a Tapestry”)</p> <p><i>Researching the Law</i>, 3-7 (Introduction to Legal Research)</p>	<p>Install Microsoft Office 365 from VLGS’s IT website if you do not already have it</p> <p>Attend <u>one</u> online Westlaw training session.</p> <p>See email from Sarah Scully for links to training sessions. Both sessions are on Microsoft Teams.</p> <p>Session 1: Monday, August 26, at 5 pm</p> <p>Session 2: Tuesday, August 27, at 1 pm</p>
	August 29	<p>Hierarchies of authority and sources of law</p> <p>Introduction to <i>stare decisis</i></p> <p>Introduction to citation and identifying assertions</p>	<p><i>A Lawyer Writes</i>, 23-32 (Systems of Law) and 141-54 (Explaining the Law: Citing and Avoiding Plagiarism)</p> <p><i>Researching the Law</i>, 9-20 (The American Legal System)</p> <p><i>The Bluebook Uncovered</i>, Chapter 1 (Legal Citations) (on Canvas)</p>	<p>Attend <u>one</u> online Lexis training session.</p> <p>See email from Sarah Scully for links to training sessions. Both sessions are on Microsoft Teams.</p> <p>Session 1: Wednesday, August 28, at 5 pm</p>

			<i>The Bluebook</i> , Table of Contents, Rule B1.1	Session 2: Thursday, August 29, at 1 pm
2	September 3	Researching statutes, legislative history, and administrative regulations  Citing statutes	<i>A Lawyer Writes</i> , 33-43 (Reading for Comprehension and Reading Statutes)  <i>Researching the Law</i> , 109-134 (Statutes and Court Rules, Federal Legislative History and Administrative Regulations)  <i>The Bluebook</i> , Rules B.12 and 12, Table 1	
	September 5	Researching Cases  Citing cases	<i>A Lawyer Writes</i> , 45-64 (Reading Judicial Opinions)  <i>How to Read a Legal Opinion</i> (on Canvas)  <i>Researching the Law</i> , 83-108 (Cases, Citators and Other Updating Tools)  <i>The Bluebook</i> , Rules B2, B10.1, 10.1, 10.2, and Table 6 (Case names in citations)	Statute Citation Exercises due on Canvas by 11:59 pm on September 8 (collaboration permitted)
3	September 10	Researching secondary sources  Citing cases, continued	<i>Researching the Law</i> , 65-81 (Legal and Nonlegal Secondary Sources)  <i>The Bluebook</i> , Rules 10.3, 10.4, 10.5, 10.6, Table 1, and Table 10 (Reporters, court, and date)	
	September 12	Beginning the research process	<i>Researching the Law</i> , 21-33 (Defining a Research Question, Pre-Search Filtering)	Case Citation Exercises due on Canvas by 11:59 pm on

		Citing cases, short forms	<i>Legal Research Process Chart</i> (on Canvas)  <i>The Bluebook</i> , Rule 10.9 (short forms for cases)	September 15 (collaboration permitted)
4	September 17	Practicing search terms and techniques	<i>Researching the Law</i> , 35-62 (Research Tools and Search Techniques, Working with Search Results; Keeping Track of What You Find)	
	September 19	Organizing your research  One legal argument  Finishing your research	<i>A Lawyer Writes</i> , 65-103 (Finding Your Arguments, Organizing Your Legal Authority, One Legal Argument)  <i>Researching the Law</i> , 136-144 (Research Flowcharts)  <i>When to Stop Researching</i> (on Canvas)  Q&A on Unit 1 Research & Citation Exam	Unit 1 Research & Citation Exam will be released at 8:00 am on September 20 and is due on Canvas by 11:59 pm on September 22
<i>Unit 2: Constructing a Legal Argument (CREAC)</i>				
5	September 24	Introduction to Unit 2, the Plain English movement, formatting conventions in legal writing  Create research and drafting plan for Unit 2	Read Unit 2 assignment (on Canvas)  <i>A Lawyer Writes</i> , 3-14 (How Attorneys Communicate)  <i>Plain English for Lawyers</i> , 3-6	Bring computers to class for Microsoft Word set up

	September 26	Rules and rule synthesis  Work through bonus <i>Plain English Exercises</i> 1-4 in class	<i>A Lawyer Writes</i> , 105-118 (Explaining the Law: Rules)  <i>Plain English for Lawyers</i> , 7-20 (Omit surplus words)	
6	October 1	Case illustrations  <i>Bluebook</i> writing conventions  Discuss research for Unit 2 assignment	<i>A Lawyer Writes</i> , 119-40 (Explaining the Law: Case Illustrations)  <i>The Bluebook</i> , Rules B5 and 5 (Quotations), B6 and 6 (Abbreviations, numerals, and symbols), B7 and 7 (Italicization), and B8 and 8 (Capitalization)	
	October 3	Application and counterarguments  Work through bonus <i>Plain English Exercises</i> 6 and 8 in class  Continue discussing research for Unit 2 assignment; I will assign sources in class to read for Oct. 8 and Oct. 10	<i>A Lawyer Writes</i> , 155-95 (Applying the Law and Counter-Analyses)  <i>Plain English for Lawyers</i> , 21-24 (Use strong verbs) and 25-29 (Use the active voice)	<i>Bluebook Writing Conventions Exercises</i> due on Canvas by 11:59 pm on October 6 (collaboration permitted)
7	October 8	Organizing your application of the law, conclusions	<i>A Lawyer Writes</i> , 197-205 (Organizing Your Application, Conclusions)  <i>Plain English for Lawyers</i> , 31-36 (Use short sentences), and 37-40 (Avoid wide gaps between the Subject, the Verb, and the Object)	



		Work through bonus <i>Plain English</i> Exercise 10 in class  Begin discussing sources assigned on October 3	Read sources assigned in class on October 3	
	October 10	Continue discussing sources assigned on October 3  Workshop on outlining the Discussion Section	<i>A Lawyer Writes</i> , 197-205 (Organizing Your Application, Conclusions), 233-49 (The Discussion Section: Introducing and Connecting Legal Arguments)	
8	October 15	Fall Break—No class		
	October 17	In class Unit 2 citation workshop  Work through bonus <i>Plain English</i> Exercise 13 in class  Q & A on Unit 2 assignment	<i>Plain English for Lawyers</i> , 53-70 (Choose Your Words Carefully)	Unit 2 Discussion Section due on Canvas by 11:59 pm on October 20
<i>Unit 3: Applied Legal Analysis (The Office Memorandum)</i>				
9	October 22	Introduction to Unit 3 Assignment	Read Unit 3 Assignment  <i>Plain English for Lawyers</i> , 71-85 (Use Commas Carefully)	

	October 24	Writing the question presented and brief answer  Work through bonus <i>Plain English</i> Exercise 18 in class	<i>A Lawyer Writes</i> , 251-68 (Question Presented and Brief Answer)  <i>Plain English for Lawyers</i> , 87-104 (Use Other Punctuation Marks Carefully)	
10	October 29	Writing the statement of facts and conclusion	<i>A Lawyer Writes</i> , 269-83 (Statement of Facts and Conclusion to the Memorandum)	Research memo due on Canvas by 11:59 pm on October 29
	October 31	The place of policy in legal arguments  Research memo debrief, sources will be assigned as reading in class	<i>A Lawyer Writes</i> , 207-14 (Policy)	
11	November 5	Discuss sources assigned in class on Oct. 31	Read sources assigned in class on October 31	
	November 7	Finish discussing sources assigned in class on Oct. 31  Case citation parentheses  Outlining workshop for Unit 3 assignment	Read sources assigned in class on October 31  <i>The Bluebook Uncovered</i> , Chapter 10 (Parentheticals) (on Canvas)  <i>SCOTUS (cleaned up)</i> (on Canvas)	

12	November 12	Editing and polishing your writing	<i>A Lawyer Writes</i> , 285-309 (Editing and Polishing)	
	November 14	Unit 3 citation workshop Q&A on Unit 3 assignment		First draft of Unit 3 assignment is due on Canvas by 11:59 pm on November 17  Final draft of Unit 3 assignment due by 11:59 pm one week after your conference
13	November 19	No class—30-minute conferences on Unit 3 drafts		
	November 21	No class—30-minute conferences on Unit 3 drafts		
14	November 26	No class—30-minute conferences on Unit 3 drafts		
	November 28	No class—Thanksgiving		
15	December 3	No class		
	December 5	Final class—Course evaluations and a look ahead		