



POLITICAL SCIENCE 401 – LEGAL WRITING, FROM COUNSELOR TO ADVOCATE

Dustin B. Brown
Tuesday/Thursday 9:30–10:45 a.m.
L185 Education Building
Spring 2020 • 3 Credits

SYLLABUS

I. COURSE DESCRIPTION

This class will introduce you to the American legal system and the fundamentals of legal analysis and legal writing. Effective legal writing bears little resemblance to the inflated and inaccessible “legalese” for which lawyers are known. The best legal writing is logical and accessible, bringing clarity to factual and legal questions and offering persuasive support for a client’s preferred outcome.

Our approach will be hands-on and interactive. We will work through real-world and hypothetical cases, studying the legal writing of others and crafting our own. You will learn how to draft objective and persuasive legal documents, how to explain and support a legal analysis, and how to edit writing for clarity and conciseness. Whether you hope to work in a law-related field, are contemplating law school, or simply want to understand how our legal system works, this class will allow you to tackle legal problems as lawyers do.

II. STUDENT LEARNING OUTCOMES

By the end of this course, you should understand how to:

1. Read legal sources critically and accurately to identify relevant information;
2. Recognize the weight and significance of legal authorities within the American legal system;
3. Analyze and synthesize legal authorities to explain and formulate controlling rules;
4. Apply legal rules to a set of facts—both to predict legal consequences and to advocate for a preferred result;
5. Use research strategies to find controlling and persuasive legal authority;
6. Write clearly and concisely about the law in different professional contexts, including objective office memoranda and persuasive legal briefs; and
7. Articulate legal analyses and argue legal positions via oral communication and advocacy.

III. CONTACT INFORMATION & AVAILABILITY

I encourage you to meet with me outside of class. My email is dustin.brown@wisc.edu, my direct office line is 608-265-2622, and my office is Room 6374.

Directions to my office are on the right. My office is not accessible by elevator. If you are unable to reach my office, I will meet you in an accessible location.

The most reliable way to meet with me is by booking a timeslot on my Calendly page:

<https://calendly.com/dustinbrown>

I regularly update my availability online to accommodate student interest. If you'd like to see me outside of the online timeslots, please let me know—I'm happy to schedule meetings at other times.

I also welcome spontaneous visits, so feel free to stop by anytime. My door is usually open, but if you find it closed, just knock.

IV. COURSE WEBPAGE

Our course webpage is at <https://canvas.wisc.edu/courses/187976>. I will regularly post class materials and assignments to this page, and I will use Canvas's "announcements" feature to send updates between classes. Be sure your Canvas preferences are set to send you an email anytime an announcement is posted, and you should check your email regularly.

V. REQUIRED TEXTS & READINGS

The following texts are required for the course:

- Bryan A. Garner, *Legal Writing in Plain English* (2d ed. 2013).
- *The Bluebook, A Uniform System of Citation* (20th ed. 2015).
- Ross Guberman, *Point Made: How to Write Like the Nation's Top Advocates* (2d ed. 2014).

You will also be required to read cases, articles, and litigation "case files" that will be posted to our course webpage on Canvas. An additional resource on legal citations, *The Citation Handbook 2019-20*, will be posted to Canvas.

Directions to my office

My office is in an obscure corner of the law library. To find me, enter the Law Building and go up to the library on the fifth floor. After entering the library, turn left into the Habush Reading Room, and walk toward the windows. About halfway into the room, a doorway on the right is labeled "5300D STAIR LEVEL 5. To Legal Research and Writing Program." Go through that door into the glass-enclosed stairwell, climb one flight to the sixth floor, and open the white door. My office is down that hall, third door on the left.

VI. ASSIGNMENTS & ACTIVITIES

Written assignments will be due every Monday by 8 p.m., starting in Week 2 and running through the Monday after our last class. In addition, over the month of February, students will independently complete a set of digital lessons on legal citation—with each lesson (and related exercises) due on Wednesdays by 8 p.m. All work will be submitted via Canvas.

There are four varieties of written assignments:

1. The course is built around two **formal legal writing projects** in which students, acting as attorneys, will analyze a legal question for a “client” based on a fictional set of facts. The first, due the week before spring break, is a closed-research **legal memorandum** (maximum 2,000 words) that objectively assesses a client’s likelihood of success in a legal matter. The second, due the second-to-last week of the semester, is an open-research **trial-level brief** (maximum 3,000 words) in which students advocate for a client’s desired outcome. In connection with the brief, students will also present a mock **oral argument** to the trial court. The legal memorandum, trial-level brief, and oral argument will each receive a letter grade.
2. Students will complete three open-book, take-home **assessments** over the course of the semester, using the “Quiz” function on Canvas. These assessments will test students’ knowledge of, and ability to apply, subject matter learned in class. Each assessment will cover a different subject: (i) foundations of law; (ii) legal citation; and (iii) legal research.
3. To prepare for the formal legal writing projects, students will submit three ungraded **writing exercises** during the first several weeks of class, on which I will provide feedback.
4. At four points in the semester, students will submit short **reflections**—informal essays of about 300 to 600 words. The first and last reflections will allow students to discuss their goals for the course, whether they’ve achieved those goals, and plans for the future. In the two mid-semester reflections, students will share insights after observing hearings in both a trial and appellate court.

Students will also complete a series of required **digital lessons on legal citation**, which will be accessible via Canvas and consist of both video lectures and exercises.

VII. GRADE CALCULATION:

You will receive a letter grade in this course, based on the following breakdown:

- **Legal memorandum** (30%);
- **Trial-level brief** (35%);
- **Oral argument** (5%);
- **Assessments** (20%);
- **Ungraded assignments** (5%); and
- **Class participation** (5%).

I will assign separate letter grades (A, AB, B, BC, C, D, or F) for the **legal memorandum, trial-level brief, oral argument, and class participation**. Those letter grades have the following numerical equivalents: A = 95; AB = 90; B = 85; BC = 80; C = 75; D = 65; F = 55.

The three **assessments** will be scored collectively as a percentage, with the number of correct answers across all three assessments divided by the total number of questions (i.e. 54 correct out of 60 would be 90%).

Ungraded assignments will receive full credit if they are submitted on time and complete. Ungraded assignments that are incomplete or late by less than one week will receive half credit. There should be 11 ungraded assignments in all: three writing exercises; four reflections; and four citation lessons. The score for ungraded assignments is determined by dividing the number of timely, completed assignments by 10: e.g. $11/10 = 110\%$; $10/10 = 100\%$; $9.5/10 = 95\%$; $9/10 = 90\%$; etc. In other words, each student gets a free pass for missing one ungraded assignment—and extra credit for timely completing all 11.

Class participation will affect the quality of everyone's learning. Your participation grade will depend on consistent attendance and active and thoughtful engagement in class. We will simulate a business environment in this class. I expect students to prepare for and contribute to class discussions and small-group exercises; behave with courtesy and respect towards others; communicate appropriately for a business setting; and express a positive, productive attitude toward work—for example, carefully following instructions when preparing and submitting assignments or responding constructively to critique.

Final grades will be calculated by applying the percentages listed at the beginning of this section to the numerical scores for each category. Letter grades will be assigned based on the following scale: $A \geq 92.5$; $AB = 87.5-92.4$; $B = 82.5-87.4$; $BC = 77.5-82.4$; $C = 69.5-77.4$; $D = 59.5-69.4$; $F \leq 59.4$.

Deadlines: All assignments, graded or ungraded, are due on the date and time posted on the syllabus. On graded assignments, I may lower your grade by one increment (e.g., AB to B) for every day or portion of a day that it is late. I will grant extensions only in exceptional circumstances.

VIII. ATTENDANCE AND CREDIT-HOURS EXPECTATIONS:

In this course, students and the professor meet in person for two 75-minute class periods each week over the spring semester. The course also carries the expectation that students will work on course learning activities (reading, writing, studying, etc.) for several hours outside of the classroom for every in-person class period.

If you must miss a scheduled class, you are responsible for obtaining all materials, assignments, and announcements covered in that class. If you know that you must miss a class or otherwise face a conflict due to a religious observance or holiday, please notify me within the first two weeks of class. Please also let me know if you have to miss class due to sickness, family emergencies, or any other obligation.

IX. CLASS SCHEDULE: TOPICS AND ASSIGNMENTS

The following is my best projection of the pacing and sequence of the course. **A schedule of required readings for each class session will be posted to Canvas and updated regularly.** The written assignments and digital lessons on legal citation will also be available on Canvas.

Weeks 1–4: Foundations of Law and Legal Writing	
Week 1	
Tuesday, January 21	<ul style="list-style-type: none"> • Perspectives on legal writing. • How to read a case. • Assigned: Reflection # 1 (goals and motivations), due January 27.
Thursday, January 23	<ul style="list-style-type: none"> • Sources of law: enacted law (constitutions, statutes, regulations) and case law (including common law). • Writing: Citation literacy.
Week 2	
Monday, January 27	<u>DUE by 8 p.m.:</u> Reflection # 1 (goals and motivations).
Tuesday, January 28	<ul style="list-style-type: none"> • The interplay of law and fact; rule and application. • Writing: Briefing a case. • Assigned: Writing exercise # 1 (case brief), due February 3.
Thursday, January 30	<ul style="list-style-type: none"> • Stare decisis and precedent; binding and persuasive authority. • Structure of the courts: state v. federal; the path of appellate review. • Jurisdiction and governing law. • Assigned: Legal citation digital lessons, due every Wednesday in February by 8 p.m.
Week 3	
Monday, February 3	<u>DUE by 8 p.m.:</u> Writing exercise # 1 (case brief).
Tuesday, February 4	<ul style="list-style-type: none"> • Substantive law: claims and defenses; rights and remedies. • Writing: explaining the law; synthesizing a rule.
Wednesday, February 5	<u>DUE by 8 p.m.:</u> Citation lesson # 1.

Thursday, February 6	<ul style="list-style-type: none"> • Procedural law: rules of procedure; legal standards. • <u>Writing</u>: illustrating the rule. • <u>Assigned</u>: Writing exercise # 2 (case illustration), due February 10.
Week 4	
Monday, February 10	<u>DUE by 8 p.m.</u> : Writing exercise # 2 (case illustration).
Tuesday, February 11	<ul style="list-style-type: none"> • Trial-court practice: pleadings and motions; questions of law and questions of fact. • <u>Writing</u>: applying the law with rule-based reasoning.
Wednesday, February 12	<u>DUE by 8 p.m.</u> : Citation lesson # 2.
Thursday, February 13	<ul style="list-style-type: none"> • Appellate practice: standards of review; questions of law and fact. • <u>Writing</u>: applying the law with analogies. • <u>Assigned</u>: Writing exercise # 3 (analogy), due February 17. • <u>Assigned</u>: Reflection # 2 (trial court observation), due March 23, and Reflection # 3 (appellate court observation), due April 13.
Weeks 5–8: Attorney as Counselor—Objective Legal Analysis	
Week 5	
Monday, February 17	<u>DUE by 8 p.m.</u> : Writing exercise # 3 (analogy).
Tuesday, February 18	<ul style="list-style-type: none"> • Attorney as counselor: Objective legal analysis. • <u>Writing</u>: The legal memorandum: audience, purpose, and structure. • <u>Assigned</u>: Assessment # 1 (foundations of law), due February 24. • <u>Assigned</u>: Legal memorandum, due March 9.
Wednesday, February 19	<u>DUE by 8 p.m.</u> : Citation lesson # 3.
Thursday, February 20	<ul style="list-style-type: none"> • Organizing a legal analysis with “IRAC.” • Articulating the issue in the Question Presented.
Week 6	
Monday, February 24	<u>DUE by 8 p.m.</u> : Assessment # 1 (foundations of law).
Tuesday, February 25	<ul style="list-style-type: none"> • The Discussion section: explaining the law (revisited).
Wednesday, February 26	<u>DUE by 8 p.m.</u> : Citation lesson # 4.

Thursday, February 27	<ul style="list-style-type: none"> • The Discussion section: applying law to facts (revisited). • Assigned: Assessment # 2 (legal citation), due March 2.
Week 7	
Monday, March 2	<u>DUE by 8 p.m.:</u> Assessment # 2 (legal citation).
Tuesday, March 3	<ul style="list-style-type: none"> • Drafting the Short Answer and the Statement of Facts.
Thursday, March 5	<ul style="list-style-type: none"> • Revising and refining your work.
Week 8	
Monday, March 9	<u>DUE by 8 p.m.:</u> Legal memorandum.
Tuesday, March 10	<ul style="list-style-type: none"> • Legal research: Planning your research; crafting word searches; using secondary sources.
Thursday, March 12	<ul style="list-style-type: none"> • Legal research: Working with primary authority; using “citators.”
<u>SPRING BREAK!</u> (March 14–22)	
Weeks 9–14: Attorney as Advocate—Persuasive Legal Writing	
Week 9	
Monday, March 23	<u>DUE by 8 p.m.:</u> Reflection # 2 (trial court observation).
Tuesday, March 24	<ul style="list-style-type: none"> • The nature and ethics of persuasion. • Themes for persuasive arguments. • Assigned: Trial-level brief, due April 20. • Assigned: Research check-in for trial-level brief, due March 30.
Thursday, March 26	<ul style="list-style-type: none"> • Legal research: Research strategy; troubleshooting; when to conclude.
Week 10	
Monday, March 30	<u>DUE by 8 p.m.:</u> Research check-in for trial-level brief.
Tuesday, March 31	<ul style="list-style-type: none"> • Motion practice: Rules and process. • Narrative in persuasive arguments. • Assigned: Assessment # 3 (legal research), due April 6.

Thursday, April 2	<ul style="list-style-type: none"> • Structuring complex legal arguments.
Week 11	
Monday, April 6	<u>DUE by 8 p.m.</u> : Assessment # 3 (legal research).
Tuesday, April 7	<ul style="list-style-type: none"> • Developing and presenting persuasive arguments. • <u>Assigned</u>: Oral argument, to be scheduled April 24–29.
Thursday, April 9	NO CLASS: Mandatory individual conferences April 6–10.
Week 12	
Monday, April 13	<u>DUE by 8 p.m.</u> : Reflection # 3 (appellate court observation).
Tuesday, April 14	<ul style="list-style-type: none"> • Refining arguments with headings and other techniques of persuasion.
Thursday, April 16	<ul style="list-style-type: none"> • Editing and polishing for persuasion.
Week 13	
Monday, April 20	<u>DUE by 8 p.m.</u> : Trial-level brief.
Tuesday, April 21	<ul style="list-style-type: none"> • Preparing for and presenting oral argument. • <u>Assigned</u>: Reflection # 4 (looking back, looking ahead), due May 4.
Thursday, April 23	<ul style="list-style-type: none"> • Other genres of legal writing.
Week 14	
Tuesday, April 28	NO CLASS: Oral arguments Friday, April 24 – Wednesday, April 29
Thursday, April 30	<ul style="list-style-type: none"> • Course wrap-up: Looking back and ahead; advice on law school.
Exam Period	
Monday, May 4	<u>DUE by 8 p.m.</u> : Reflection # 4 (looking back, looking ahead).

OTHER IMPORTANT INFORMATION

COLLABORATION POLICY

Collaboration and teamwork can be valuable for learning, but on graded assignments, you must demonstrate your own proficiency in legal research, analysis, and writing. Although you may discuss assignments with others, you may not share research sources you have found. All written work must be entirely your own. Without my permission, you may not show anything you have written to anyone else.

ACADEMIC INTEGRITY STATEMENT

By virtue of enrollment, each student agrees to uphold the high academic standards of the University of Wisconsin-Madison; academic misconduct is behavior that negatively impacts the integrity of the institution. Cheating, fabrication, plagiarism, unauthorized collaboration, and helping others commit these previously listed acts are examples of misconduct which may result in disciplinary action. Examples of disciplinary action include, but is not limited to, failure on the assignment/course, written reprimand, disciplinary probation, suspension, or expulsion.

ACCOMMODATIONS FOR STUDENTS WITH DISABILITIES

The University of Wisconsin-Madison supports the right of all enrolled students to a full and equal educational opportunity. The Americans with Disabilities Act (ADA), Wisconsin State Statute (§ 36.12), and UW-Madison policy (Faculty Document 1071) require that students with disabilities be reasonably accommodated in instruction and campus life. Reasonable accommodations for students with disabilities is a shared faculty and student responsibility. Students are expected to inform me of their need for instructional accommodations by the end of the third week of the semester, or as soon as possible after a disability has been incurred or recognized. I will work either directly with the student or in coordination with the McBurney Center to identify and provide reasonable instructional accommodations. Disability information, including instructional accommodations as part of a student's educational record, is confidential and protected under FERPA.

DIVERSITY & INCLUSION

Diversity is a source of strength, creativity, and innovation for UW-Madison. We value the contributions of each person and respect the profound ways their identity, culture, background, experience, status, abilities, and opinion enrich the university community. We commit ourselves to the pursuit of excellence in teaching, research, outreach, and diversity as inextricably linked goals.

The University of Wisconsin-Madison fulfills its public mission by creating a welcoming and inclusive community for people from every background—people who as students, faculty, and staff serve Wisconsin and the world. <https://diversity.wisc.edu/>

** End **