

Introduction to Legal Reasoning: Reading and Writing

Political Science 104 J

Winter 2017

Class time: Wednesdays 6-8:50 pm

Classroom: Social Sciences Building 104

Professor Matthew Bergman

Department of Political Science

Ph.D. Candidate

Office: Social Sciences Building 327

E-mail: mebergma@ucsd.edu

Office Hours: Wednesday 3:30-5:30 pm and by appointment (I am on campus most days)

Course Description and Goals

The ability to write and argue is one of the noted benefits of a legal education. Students will learn the basics of legal research and reasoning by learning to read and brief case law and write and objective memorandums.

This course has the prerequisites of POLI104A/B. The learnings of WHAT courts rule in these cases and HOW cases travel through the court system are necessary foundations to understanding WHY the courts rule the way they do. Little time in this course will be devoted to the structure of the legal system, but you can certainly use landmark cases from those classes to help motivate your learning in this course.

This course serves as preparation for POLI104K: Formulating Appellate Arguments. These courses are usually taught in Law School, and this course will be taught at a similar level. The intent of these courses is to provide a sample law school experience to undergraduates at UCSD. As such, there will be frequent guests sharing their experiences with the class throughout the quarter.

The main goal of these courses is to help you realize that law is a *discussion* with no *right answers* and to enable you to be a part of it. The small class size was selected to enable you to have such discussions with each other, your professor, and guests from the legal community that will be coming to join us. On the last day of class, you will be presenting contemporary legal discussion around a topic of your choosing.

At the end of the quarter, students will be able to:

- o read and analyze statutory law
- o read and analyze case law
- o conduct basic electronic legal research

- o apply legal rules to a set of facts
- o identify and formulate issues
- o analogize, distinguish and synthesize cases
- o apply case and statutory law in an analytical framework utilizing legal reasoning principles of to write an objective legal memorandum
- o apply case and statutory law in an analytical framework utilizing legal reasoning principles of to advise a hypothetical client

Required Textbook

TEXT: Deborah A. Schmedemann & Christina L. Kunz, *Synthesis: Legal Reading, Reasoning, and Writing* (4th ed. 2014). ISBN: 978-1-4548-0865-7. This will be our main text.

You are highly encouraged to annotate the text noting key distinctions between strong and weak examples. Be sure to highlight where key terms are addressed and use these and the end of chapter reviews as checklists to self-assess your understandings.

Note: Some of the chapters reference an appendix to the chapter, which immediately follows the chapter

Note*: There are also appendices to the book itself, these are labeled with roman numerals: Appendix I, Appendix II, etc. They begin on page 299.

Exercises: They begin on page 359. These will be assigned as classwork and homework for practice and as excellent preparation for examination. We will spend some time in the beginning of class going over the relevant exercises from the previous week before addressing the day's topic. Do not overly concern yourself with formality or formatting on exercises; the goal is to give certain issues some thought and to have an opportunity to receive feedback before examination. Use these exercises and examples to guide your own work

TritonEd: In addition to the required text, please also check the course website each week for additional materials that will occasionally supplement your readings. When something is posted, you will be notified via e-mail.

Course Format and (High) Expectations

- Each class session will involve lecture and practice of concepts; most will include a guest
- When time is limited, students are expected to complete assigned exercises at home.
- Considerable time outside of class to readings, assignments, and research, typical of the law school experience.
- Students should be prepared having read the moderate course assigned reading before class; this enables active participation in course discussion and activities

- The second portion of the course will require regular work with a group, interested in a similar legal topics, who will ultimately prepare a final presentation together
- Attendance is expected at all meetings with exception of pre-arranged conflict
- From Professor you can expect: (1) checklists/rubrics for each assignment; (2) <12 hour reply to e-mails during the week; (3) to gear examples towards your interest
 - So let me know what you are interested in, or any other reactions to the course and I can gear it appropriately.

Weeks 1-4: What Lawyers **Read**

Weeks 6-7: How Lawyers **Analyze**

Weeks 8-9: How Lawyers **Write**

As there no TA assigned for this course, it will be required for your group to meet with the professor at least once during weeks 8 and 9 to ensure adequate progress on the final presentation.

Your work will culminate in a final presentation documenting the current reasoning behind the interpretations of a statute/rule recently discussed by the US Judicial System.

Laptops are encouraged when we receive tutorials on electronic legal research. However, you are expected to conduct yourselves with professionalism, to pay attention, and to only access materials relevant and necessary to the course. I reserve the right to change this policy at any time.

Teamwork/Cooperative Learning

Weeks 5-10 of the course require you to work with 2-3 of your peers, who will be assigned to your team. The expectations are an equitable distribution of work and effort. I HEAVILY suggest you meet outside class times and will introduce you to *doodle* a web-based scheduling tool. You should also share a dropbox, google drive, or utilize the TritonEd space that will be made available to you. This aspect of the course is important as it will prepare you to work well with others in your professional or post-graduate experiences as “small group” skills are becoming increasingly important in today's workplace. Your “department” will be working on a legal topic of your interest to create a legal commentary and office memo. Work with your group to peer edit any assignments and be constructive with one another. The individual final. Group presentation, and group assessment will still provide opportunities for individual accountability.

Beyond your group, this is a unique seminar face-to-face learning environment. Unlike law school, where students often compete for the highest grade, this course is structured so that everyone can succeed, and in fact, are more likely to succeed when they are open with discussion and constructive criticism. Our goal should be to exceed expectations for a group of undergraduates engaging with complex legal material, and demonstrate to our observers on the day of final presentations.

Grading

- 15 pts Participation, Attendance, Classwork/Homework, Textbook Exercise Completion
 - 25 pts In Class Midterm Exam: textbook vocabulary, tables, and exercises (Week 5, February 8)
 - 10 pts Draft Group Final Office Memo, Commentary, Prof Meeting (Week 10, March 13)
 - 10 pts Group Commentary Presentation (Week 10, March 15)
 - 5 pts Peer Review of Another Group's Office Memo and Commentary: (Week 10, March 17)
 - 10 pts Final Office Memo + Commentary (bring to final, submit online March 22)
 - 25 pts Final Individual Exam: short-form office memo, client memo, IRAC (Wednesday 22 March, 7pm-10pm)
- *Final Group Self-Evaluation could raise or lower total score

University Policy on Integrity of Research

The *University Policy on Integrity of Research* aims to encourage and maintain the highest ethical standards in research. The policy reaffirms the University's commitment to integrity in research:

Integrity of scholarship is essential for an academic community. The University expects that both faculty and students will honor this principle and in so doing protect the validity of University intellectual work. For students, this means that all academic work will be done by the individual to whom it is assigned, without unauthorized aid of any kind. Instructors, for their part, will exercise care in planning and supervising academic work, so that honest effort will be upheld (<http://www-senate.ucsd.edu/manual/appendices/app2.htm>).

Please uphold these standards. Be especially careful not to plagiarize. Plagiarism is defined in the Merriam-Webster dictionary as follows: "to steal and pass off (the ideas or words of another) as one's own: use (another's production) without crediting the source; intransitive senses: to commit literary theft: present as new and original an idea or product derived from an existing source." Please note that it is also against University policy to submit the same paper for credit in more than one course. This is self-plagiarism. You should also familiarize yourself with the materials available on the website for UCSD's Academic Integrity Office: <http://students.ucsd.edu/academics/academic-integrity/index.html>.

How Not to Plagiarize

Following are two sites that discuss the wrongdoing of plagiarism and tell you how to avoid it: http://sshl.ucsd.edu/plagiarism_old/Tips-PP-Brochure-09Apr10.pdf
<http://www.indiana.edu/~istd/>

Useful Resources

Student Counseling, Health, and Well-Being Central Office & Urgent Care: 858-534-3755

Writing Center: 127 Mandeville Telephone: 858-534-4911

course guide: <http://ucsd.libguides.com/poli104j>

Annelise Sklar; Social Science Collection Coordinator at Geisel: ASklar@ucsd.edu

She is willing to host daytime/afternoon sessions on all the resources, so if a group of you wanted further tutorials on the legal search engines, do not hesitate to send her an e-mail.

Course Outline

Week 1: Course Introduction: Rule-Based Legal System – January 11, 2017

Required Reading: Synthesis: Chapter 1 & 2

Week 2: Reading Statutes – January 18, 2017

Required Reading: Synthesis: Chapter 4 (*note, going backwards in the textbook)

Guest: Mona Vakilifathi; PhD Candidate, Legal Text Analysis Expert

Week 3: Reading Cases - January 25, 2017

Required Reading: Synthesis: Chapter 3 (*note, going backwards in the textbook)

Guest: Darin Wessel, Esq; Partner Manning & Kass Ellrod, Ramirez, Trester LLP

Week 4: Reading Commentary – February 1, 2017

Required Reading: Synthesis: Chapter 5 & Explore Westlaw/Lexis/Hein

Week 5: In-Class Midterm - February 8, 2017

Steps toward final commentary/memo: Form groups based off a similar topic of interest

Week 6: Applying Rules to Facts: Legal Reasoning - February 15, 2017

Required Reading: Synthesis: Chapter 6

Steps toward final commentary/memo: Decide which statute or legal rule your group will focus on start to gather list of important rules, statutes, and cases

Week 7: Rule-Driven Legal Writing: IRAC - February 22, 2017

Required Reading: Synthesis: Chapter 7

Guest: Shawn Huston, Esq; Managing Partner at Huston|McCaffrey, LLP - Attorneys at Law

Steps towards final: Research and IRAC at least 3 cases each relating to your statute/rule

Week 8: Analytical Office Memo – March 1, 2017

Required Reading: Synthesis: Chapter 8

Steps towards final: Create a set of facts for an office memo; discuss synthesis of cases

Guest: Craig Nicholas, Esq; Attorney Nicholas & Tomasevic, LLP

Week 9: Client Advice Memos – March 8, 2017

Required Reading: Synthesis: Chapter 9

Steps towards final: Submit draft of office memo and commentary (March 13th)

Guest: Darin Wessel, Esq; Partner Manning & Kass Ellrod, Ramirez, Trester LLP

Week 10: Final Presentations – March 15, 2017

Required Reading: *None*

Steps towards final: *Provide peer-review on office memo and commentary (March 17th)*

Final Exam – March 23, 2017