FINAL REPORT: Creating a Legal Research and Writing "Lab" for Use in Conjunction with Substantive Law Seminars and Law Review Writing to Satisfy the Upper-Level Writing Requirement

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The Problem

Our law school requires an upper-level capstone writing requirement for graduation that involves "significant legal research, organization, and analysis," must be "at least 6,250 words in length, exclusive of footnotes or endnotes," and it "must be supported by footnotes, endnotes, or other appropriate citation of authority." Traditionally, students write this paper in seminars or as a member of law review as a student note. While students receive formative assessment by faculty at crucial points in the writing, there was no formal requirement that the faculty overseeing these papers provide formal instruction in legal research, analysis, citation, or writing.

The problem was that the writing requirement paper was part of a course focused on substantive law or legal issue and instructors were reluctant to take time away from legal content to devote to teaching writing. Except for being asked to attend a one-hour program by co-researcher Metzmeier on how to write a research paper or note, there was no writing or research instruction. Moreover, the feedback students received was unsystematically idiosyncratic, ranging from good general comments to mere correction, but even those instructors trying their best did not reinforce the lessons of their students' first-year reading and writing classes.

To make this writing requirement more meaningful, and to take this opportunity to supplement the research and writing instruction the students received in first-year courses, the law faculty approved a one-hour online course to be used alongside a substantive seminar, independent study, or law review and the applicants—the then coordinator of legal writing and the associate director of the law library—were tasked with developing the course. The original plan was to have modules on topic selection, legal research, interdisciplinary research, organization of an academic paper, legal writing techniques, and citation.

The solution we devised was to create an asynchronous online upper-level legal research and writing class for every student to take in conjunction with whichever course they were using to satisfy their writing requirement. This new course allowed us to ensure that every student will have consistent instruction in how to write a research paper as well as to strengthen their skills in legal research, writing, and citation. We sought a ALWD Teaching Grant to assist us in this endeavor.

Design of Course Materials Modules

The major work undertaken by the co-researchers, one additional co-researcher from the library, Erin Gow, and a teaching assistant was to create a library of course materials that instructors of the writing labs could import into the Blackboard course for the upper-level legal writing and research lab associated with their seminar, independent study, or law review advisership. (The University of Louisville uses Blackboard as its online learning platform). The materials are hosted on a dedicated Blackboard Organization and arranged in seven modules that could be adopted into the Blackboard course for upper-division writing labs designated to meet the law school writing credit. (Unlike a Blackboard course, an "organization" is not limited in duration for a semester and can be managed by multiple "creators," which was perfect for an entity meant to be a multi-semester resource).

Modules include an introduction to academic writing, topic selection, research, outlining a paper, writing a draft, citation resources, and plagiarism. We also provided a sample syllabus and exercises for faculty to adapt for use in their seminar courses. We will attach those documents to this report. In addition, the Black Organization has documents for faculty users on importing the materials into their course shells.

The first module is an Introduction to Academic Writing, with a reading. This is followed by a module on Topic Selection with articles by Heather Meeker and Eugene Volokh. In addition, there is a library guide and Powerpoint slides for a presentation "Picking a Topic for a Research Paper or Student Note." The third module is on legal research and contains readings, videos, and lessons on various aspects of advanced legal research of the kind used in research papers, including 50-state surveys, interdisciplinary research, and legislative history research. There are also library guides directing students to subject area guides and to specialized research. The Outlining Your Paper module has a short piece on "How to Make an Outline" and a short piece on writing a roadmap paragraph that is adaptable to writing an abstract to get topic approval in some classes and law review note processes. The fifth module, on Writing a Draft, includes Volokh's "Writing a Student Article," a Law Library guide with writing tips, resources and information about avoiding plagiarism, and materials from the UofL Writing Center. The Citation Module has Suffolk Law's ALWD Citation Quick Guide Card, the Tarlton Law Library's A Guide to Legal Citation Using Bluebook Rules, and pieces contributed by the co-researchers on "Id. v. Supra" and "Interpreting Case Citations." The final learning module is on Plagiarism and includes the university and law school plagiarism policies, a CALI exercise on plagiarism in the online world, and other plagiarism tutorials.

In addition to the modules, co-researcher Sweeny created exercises on analyzing a scholarly article, choosing a topic, developing a thesis, and outlining papers to assess the students use and understanding of the materials in the modules.

Implementation of the Course

We created the "lab" materials and began piloting the lab class in remote seminar classes taught in summer 2020, and we incorporated modifications to the materials based on student and faculty feedback for the fall 2020 semester. In fall 2020, the lab was implemented by six faculty teaching a mixture of remote and hybrid seminar courses, followed up by six more in Spring 2021. (Our university's "Pivot to Fall" plan mandated that all courses be taught in one of those two formats). In addition to the eight faculty who used the lab in a seminar course, we know that a total of fourteen law school faculty viewed components of the materials in the Blackboard organization hosting the lab. Calculating faculty use after the pilot year is more difficult because, after a faculty member had copied the materials from our Blackboard shell, they could use them again as they chose but doing so would not enable us to track that usage. Still, we estimate that a similar number of faculty used the lab materials in 2021-22.

Assessment

While getting relevant quantitative evidence has been difficult, supportive qualitative anecdotal feedback from instructors has occurred since the initial use of the course. There is a consensus that the materials in the Course Materials were helpful to professors developing their online labs. Moreover, there is general understanding that the law school's new upper-level legal research and writing lab was

an improvement over the prior arrangement, although there is still resistance from some faculty. In particular, some faculty have noted an improvement in the research papers they received from students.

In an effort to get feedback from students and faculty regarding their experience of the lab, we created a short survey. Although we did not receive enough responses to run any kind of statistical analysis, what did we receive was quite positive. More specifically, student respondents consistently reported that the module on legal research and citation resources very helpful, and the other modules somewhat helpful. Students also reported that the different exercises built well upon each other and the course was generally easy to follow. The students also liked the online asynchronous format of the module.

Faculty responses were similar. Faculty found the modules on topic selection, outlining, writing a draft, and citation of resources very helpful. One faculty member found the modules on introduction to academic writing, legal research, and plagiarism resources very helpful, while one faculty member found these modules only somewhat helpful. All of the faculty liked the asynchronous online format of the modules and believed the workload in the course was very reasonable for students and the workload involved for faculty was either very reasonable or somewhat reasonable.

Going Forward

While the project funded by the ALWD Teaching Grant has closed, upper division writing instruction at the University of Louisville will continue to build on this foundation.

The ALWD Teaching Grant gave us the funding we needed to create an asynchronous online upper-level legal writing and research class that we now require every student to take in conjunction with whichever course they are using to satisfy their writing requirement, including journals and independent studies. This new course allows us to ensure that every student will have consistent instruction in how to write a research paper as well as to strengthen their skills in legal research, writing, and citation. Most importantly, the ALWD Teaching Grant allowed us to hire a student to test out the course and provide us with meaningful feedback that we are using to refine it going forward. We are extremely grateful to ALWD for the support they provided.

We are very pleased with the results of our work and believe that we have created a model that can be replicated elsewhere. In fact, when Dean Sweeny presented the lab and its effectiveness at the 2021 ALWD Biennial Meeting, she received substantial positive feedback from attendees. We believe that there is a need for this kind of class and continue to provide our materials to those who are interested in recreating it at their own institutions.

This course is the means by which students satisfy the Upper Level Writing Requirement by producing a substantial writing project that meets the requirement's standards. It must be taken in conjunction with a writing-eligible seminar, law-journal membership, or an independent study supervised by a full-time faculty member.

This course will be an asynchronous online course delivered entirely on the University of Louisville's Blackboard system. You will be automatically added to the Blackboard course upon registration, but will need a computer and Internet connection sufficient to make use of this system. In addition, from time to time, your professor may send you e-mail notifications of course information or assignments. It is your responsibility to ensure that you check your email regularly, and that your email account is functioning properly.

STUDENT LEARNING OUTCOMES

By the end of the course, students will be able to:
- Develop an appropriate legal research topic,
- Plan and organize their research
- Conduct thorough and relevant legal research,
- Use their research to support legal analysis and reasoning; and
- Produce a substantial legal written product that
  - Communicates ideas or arguments, rigorous legal analysis, and sustained reasoning effectively and professionally
  - Is well organized, and
  - Is supported by legal research and appropriate citations to authorities.

REQUIRED COURSE MATERIALS

Readings for this course consist of articles and book chapters. All readings are posted on Blackboard and are organized by topic.

GRADING POLICY

In addition to completing the course reading, to satisfactorily complete this course students must do the following:

1. Meet regularly with the instructor about the paper topic, research plan, and interim written products;
2. Submit at least two pieces of interim work product that allow meaningful practice of skills and written formative feedback, one of which must be a substantially completed draft of the final work product; and
3. Submit a final work product that:

a. is at least 6,250 words exclusive of footnotes or endnotes (but supported by footnotes, endnotes, or other appropriate citations to authorities),
b. demonstrates sound legal analysis and reasoning,
c. is supported by significant legal research and proper citation to authorities,
d. communicates the student's analysis and research effectively and professionally, and
e. has not been prepared in any other course or for any other publication/

In addition, the final written product must earn a grade of "C" or higher in order to satisfy the Upper Level Writing Requirement.

TITLE IX/CLERY ACT NOTIFICATION

Sexual misconduct (including sexual harassment, sexual assault, and any other nonconsensual behavior of a sexual nature) and sex discrimination violate University policies. Students experiencing such behavior may obtain confidential support from the PEACC Program (852- 2663), Counseling Center (852-6585), and Campus Health Services (852-6479). To report sexual misconduct or sex discrimination, contact the Dean of Students (852-5787) or University of Louisville Police (852-6111).

Disclosure to University faculty or instructors of sexual misconduct, domestic violence, dating violence, or sex discrimination occurring on campus, in a University-sponsored program, or involving a campus visitor or University student or employee (whether current or former) is not confidential under Title IX. Faculty and instructors must forward such reports, including names and circumstances, to the University's Title IX officer.

For more information, see the Sexual Misconduct Resource Guide (http://louisville.edu/hr/employeerelations/sexual-misconduct-brochure).

HONOR CODE

This class follows all of the rules found in the Brandeis School of Law Honor Code, located at http://www.law.louisville.edu/academics/selected-university-offices, and the University's Code of Student Rights and Responsibilities, located at http://louisville.edu/dos/policiesprocedures/student-rights-and-responsibilities-1-1.html. These rules require that all students submit only their own individual work, unless collaboration is specifically authorized by your professor. Plagiarism, or the submission of someone else's work as your own without proper attribution, is unethical and is in violation of the Honor Code.

ACCOMODATIONS FOR STUDENTS WITH DISABILITIES

Any student who may need academic accommodations or access accommodations based on the impact of a documented disability must register with the University's Disability Resource Center (DRC) at the beginning of each semester. DRC is the official office to assist students through the process of disability verification and coordination of appropriate and reasonable accommodations. If you have a disability for which you are or may be requesting an accommodation, you must contact DRC (Cathy Patus, Director), in Stevenson Hall, or at (502)

852-6938, cathy.patus@louisville.edu. You must also advise Assistant Dean Crystal Coel in room 216 or at crystal.coel@louisville.edu or 852-8956 that you are seeking an accommodation from DRC in order for the Law School and DRC to more effectively coordinate any assistance provided.

For more information regarding disability services, see http://louisville.edu/disability/. Please also review the Law School's Handbook for Applicants and Students with Disabilities at http://www.law.louisville.edu/sites/www.law.louisville.edu/files/Handbook%20for%20Disability%202012.pdf.

READINGS & RESOURCES

1. **Introduction to Academic Writing**

Jessica L. Clark & Kristen E. Murray, "Introduction to Academic Writing" in Scholarly Writing: Ideas, Examples, and Execution (2010).

2. **Picking a Topic**

Heather Meeker, "Stalking the Golden Topic: A Guide to Locating and Selecting Topics for Legal Research Papers," 1996 Utah L. Rev 917 (1996).

Eugene Volokh, "Writing a Student Article,: 48 J. Legal Educ. 247 (1998).

Library guide with tips & resources for selecting a topic for a seminar paper or law review note: https://library.louisville.edu/law/papers/topic.

"Picking a Topic for a Research Paper or Student Note," Powerpoint presentation.

3. **Research**

Writing Requirement Research Guide, https://library.louisville.edu/law/papers/research. A guide to finding resources for conducting policy research, 50 state surveys, and legislative history research.

Westlaw, Lexis & Bloomberg Search Strategies, https://library.louisville.edu/law/search-strategies. A guide to advanced searching in three major legal databases.

HeinOnline: Law Journal Library, https://libguides.heinonline.org/law-journal-library/. A guide to searching and using HeinOnline's comprehensive collection of law reviews and legal journals.

HeinOnline: National Survey of State Laws (Video), https://help.heinonline.org/kb/national-survey-of-state-laws/. This six-minute video explains how to use the National Survey of State Laws to compare laws in various states.

Lexis: 50 State Surveys (Video), https://www.lexisnexis.com/en-us/support/lexis/sources-you-should-know. This two-minute video explains how to conduct 50 state surveys in the Lexis database.

Westlaw: Legislative History Research. This collection of short interactive lessons introduces tools for completing 50-state surveys, comparing historical changes to statutes, and researching legislative intent in the Westlaw database.

Finding Legislative History on Lexis Advance (Web resource), https://lexisnexis.custhelp.com/app/answers/answer_view/a_id/1100511/~/finding-legislative-history-on-lexis-advance.

Legal Research Guides, https://library.louisville.edu/law/library/guides. A complete list of legal research guides that provides information and resources for researching a range of legal subjects.

Writing Requirement Research Guide, https://library.louisville.edu/law/papers/research. A guide to finding resources for conducting policy research, 50 state surveys, and legislative history research.

4. Outlining

Marion Cushman, "How to Write an Outline." Los Angeles Valley College Library. 2001, rev. 2020, <http://www.lavc.edu/Library/outline.htm>.

"Sample Roadmap Paragraph," From Michigan Law Review Teal Book, http://michiganlawreview.org/wp-content/uploads/2018/10/TealBook-Vol.-117.pdf.

5. Writing a Draft

Eugene Volokh, "Writing a Student Article,: 48 J. Legal Educ. 247 (1998).

Eugene Volokh, "Volokh_Using-Evidence_Correctly, in "Academic Legal Writing, 5th.

Law Library Legal Research & Writing Guide, https://library.louisville.edu/law/research-study. Library guide with useful resources & tools for legal research & writing.

Law Library Writing Guide, https://library.louisville.edu/law/papers/writing. Library guide with writing tips, resources & information about avoiding plagiarism.

What Is the Difference Between Quotation, Paraphrase, and Summary? UofL Writing Center, https://louisville.edu/writingcenter/for-students-1/common-writing-questions-1/what-is-the-difference-between-quotation-paraphrase-and-summary.

6. Citation Resources

"Id v. Supra" & "Interpreting Legal Citations" handouts from Metzmeier

Suffolk Law School Citation Guide, https://www.suffolk.edu/law/faculty-research/library-services/a-bluebook-guide-for-law-students/citing-articles

7. Plagiarism

UofL Plagarism Policy, From UofL Student Rights and Responsibilities, section 5, part E.

Brandeis School of Law Honor Code, The above UofL Student Rights and Responsibilities is incorporated in the School of Law's Honor Code, found in Appendix 2 of the current Student Handbook.

CALI Lesson: Plagiarism in an Online World. This roughly 45-minute CALI lesson explains what constitutes plagiarism, distinguishes between copyright and plagiarism, and allows students to test their understanding of plagiarism.

Plagiarism Tutorial (from University of Southern Mississippi; short SoftChalk presentation with 10-question quiz): https://lib.usm.edu/plagiarism_tutorial/.

Exercise 1: Analyzing a Law Review Article

Please choose an article related to your paper topic. It can be an assigned article from your class or an article you found while researching your topic. For this article, answer the following questions:

1. What is the author's thesis?
2. Present a brief synopsis of the author's main arguments.
3. How does the author present the arguments structurally?
   Consider issues like:
   a. What information is in the introductory section?
   b. What information is in the conclusion?
   c. How long is the introduction?
   d. How long is the conclusion?
   e. How does the author structure the body of the text?
   f. Are the arguments developed in a logical order that is easy to follow? What makes you think that?
   g. Does the author use headings/subheadings to guide the reader?
   h. Do you find those headings helpful and why?
4. What are your main criticisms of the structure of the article? How might it be improved?
5. What are your main criticisms of the author's arguments?
6. What do you like about the author's arguments?
7. Did you learn anything from this exercise that you think might help you in writing your paper? Explain.

<u>Exercise 2: Choosing A Paper Topic</u>

1. Choose a general area of law

The first step in developing a thesis is to choose a general topic that interests you. Once you have a general topic, you will then expand it to create a thesis and legal arguments supporting it.

 If you are writing a paper as part of a seminar course, your topic should relate to the materials covered in that course. One method of choosing a topic is to think about what reading you have done in your course that interested you. Your topic may simply relate to a broad area in your course or a specific case, article, or book chapter you read.

If your paper is not part of a seminar, you can use this method with sources you read in your other classes or even a news article that you found interesting (as long as it relates to the law in some way).

2. Look for a conflict

Scholarly papers do not just describe the state of the law or summarize cases; they look for areas of conflict or change. To narrow your topic, think about where people have disagreed about the outcome of a case or how a statute or constitutional provision applies to a group of people or a situation. This conflict can come from a variety of circumstances, including:

- A jurisdictional conflict – two or more courts/states/countries resolving a legal problem in different ways
- A new technology or modern development that may not fit well within existing legal paradigms

Often, students and scholars choose a topic that resonates with them, often because of personal circumstances. This personal connection can add meaning to the research, which can help with focusing and motivating the researcher.

For this worksheet please identify the following:

1. What area of law are you interested in?

2. What conflict or problem do you want to focus on?

<u>Exercise 3: Developing Your Thesis Statement</u>

In order to guide your further research and writing, it is important to develop a strong thesis statement. This thesis may change as your research progresses but having a thesis in the early stages of your research will help you filter out sources that are not helpful and focus on those that are.

1. Use sources on your topic to develop an argument

Once you have a topic, look for articles, books, or cases on that topic and read them. Those sources may provide you with a good thesis. Here are some possible ways you can use sources to develop a thesis:

- Respond to a thesis argued in a book or article you have read
- Respond to a court case by arguing that the case was wrongly decided or should be extended
  - o To do so, you may want to examine different legal theories such as formalism, critical theories, or legal realism.
  - o You may also want to make institutional arguments, and argue that a different branch of the government should decide the issue in tandem or instead of the courts
- Analyze the consequences of a recent court decision for other groups, situations or laws that may not have been anticipated.
- Make normative arguments that a certain rule is just or unjust, again as it was originally decided or as applied to a new group or situation.
- Identify an inconsistency in the law, either because different jurisdictions are interpreting the law differently, or because of a change in circumstances that makes the existing law inapplicable or inappropriate for the new circumstances
- Bring in interdisciplinary sources to examine an issue from a new perspective
- Place the law in its larger social and historical context

2. Write your thesis

A good thesis statement should argue an original, well-supported hypothesis about your general topic. Often, a thesis will identify a problem and present a solution. A thesis statement should be clear and concise – typically only one sentence.

For this assignment, answer the following questions:

1. Which of the strategies identified in item 1 above are you using?

2. Please list five sources you have found that you intend to use as sources for your paper.

3. What is your thesis statement?

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<u>Exercise 4: Outlining Your Paper</u>

This exercise is meant to help you develop your research topic from your initial thesis to a working draft. For this assignment, please answer the following questions:

1. What is your research thesis (it can change as you do more research but try to formulate it as best you can right now)?
2. What issues/terms may need to be defined or explained to write a paper supporting your thesis? Consider the following:
   a. Are there any "terms of art," causes of action, or commonly used legal phrases or terms that need to be defined?
   b. Which laws (statutes, constitutional provisions, cases), specifically, are implicated in your thesis?
3. What will you talk about in your introduction? Consider the following:
   a. Is there a recent issue in the media that brings your issue to light?
   b. What existing scholarly literature does your paper fit into? How will your paper expand on that literature?
   c. Is there a case or line of recent cases that highlight this issue?
4. What kinds of arguments do you think you might raise in the body of your paper to support your thesis?
5. How will you organize these arguments? Consider the following:
   a. Are there any threshold issues that you need to go over first?
   b. Do certain arguments need to be discussed together?
   c. How would you write this structure in a roadmap?
6. For each argument identified, write a brief summary of what that argument will say and identify at least one source you will use to support it.