

Advanced Legal Research and Writing: Law 388 S10

University of Victoria Faculty of Law

Instructor: Tim Richards
Email: trichard@uvic.ca
Office: Room 236
Phone: 721-8185

Office hours: you may drop by my office or schedule an appointment. Generally, I will be unavailable for one and a half hours prior to LRW and ALRW classes.

Class Time: Tuesday and Thursday, 1:30 – 3:00 p.m.

Classrooms: Computer Lab (in the Library)
Room 142

Course Description and Objectives

This course builds on the research and writing skills learned in first year law. Students explore a wide range of research sources, legal and nonlegal, with an emphasis upon computer assisted legal research. The importance of context, organization and plain language in legal writing is stressed. This course provides a foundation for success in the Legal Research and Writing component of the Professional Legal Training Course (B.C.).

Texts

Required

1. Nash. *Legislation Made Easy*. (2d ed. 2004)
2. Wydick. *Plain English for Lawyers*. (5th ed 2005) (*PEL*)

Material on Reserve

1. Booth *et al.* *The Craft of Research*. (3rd edition, 2008)
2. Continuing Legal Education Society of British Columbia. *Legal Research 2004 and 2008*
3. MacEilven. *Legal Research Handbook* 5th ed. (2003)
4. McGill Law Journal. *Canadian Guide to Uniform Legal Citation*. 6th ed. (2006)
5. Strunk & White. *Elements of Style*. (4th ed. 2000)

In preparation for classes, you are expected to read the required reading in the class schedule, as well as at least one of the recommended readings. All of the books referred to on this outline are on reserve for this course

Methodology

The course will employ a combination of lectures, exercises, and tutorials. Students will be advised on how to obtain passwords for Quicklaw/Lexis and WestlawCanada as well as other research databases required for use or mentioned in the course. Several guest speakers will present to the class on specific aspects of legal research and writing.

The classes will present concepts and theory, explain the structure of secondary sources, and provide practice in developing legal analysis and research skills through in class exercises. Students are strongly encouraged to engage with the material through asking questions and engaging in class discussions.

Evaluation

The following table presents the weights, distribution dates and due dates for the assignments for Law 388.

Assignment	Value	Distributed	Due
Major Research Assignment	50%	January 5	April 8
Research Plan	15%	January 5	February 2 & April 8
Legislation Quiz	15%	February 9 (subject to change)	
Case Law Quiz	15%	March 23 (subject to change)	
Class Participation	5%		

The descriptions and instructions for each assignment will be provided when the assignments are distributed.

1. Research Paper: 50 % of final mark

For this assignment, students are to select their own topic, in consultation with the instructor, or choose a topic provided by external “clients”. If the research is done on a topic provided by an outside client, a copy of the paper will be forwarded to the client-lawyer who requested the research (18 – 20 pages in length).

General Comments

The focus and purpose of this course is legal research. It is wise to choose a topic that provides you with an opportunity to develop and apply your legal research skills. That said, the range and types of topics is very broad.

Papers that are purely descriptive and lack depth of analysis will tend to receive lower grades. It is common that papers quickly expand beyond what can be well analyzed in 18 to 20 pages. Be aware of this as you choose your topic and develop your paper. Your paper will be better if it analyzes in depth a specific narrow topic in an area of law rather than if it consists of a general survey of a broad topic.

Page and Format Requirements

Pages:	18 – 20
Page size:	8.5" x 11"
Font:	12 pt. Times New Roman
Lines:	Double spaced
Margins:	1" on each side
Footnotes or Endnotes:	10 pt. Times New Roman, single spaced

The page limit is exclusive of the title page, the bibliography and any appendices. It includes footnotes and endnotes. All papers must have a bibliography.

I recommend that you include an appendix if your paper references statutory provisions.

The Research Paper and Research Guide must be submitted no later than the last day of classes for the term, Thursday April 8th, unless otherwise authorized by the instructor. Such authorization shall not extend the time for submission beyond the end of the examination period on Friday, April 23rd.

2. Research Plan: 15% of final mark

The Research Plan is an assignment that accompanies your Research Paper. It is submitted twice in two forms. The first version is due on Tuesday February 2nd, and is an outline of the general topic of your paper and your plan for how you will conduct the research necessary to complete your paper. Its content should include:

1. Your general area of interest for your research;
2. Preliminary statements of the possible specific topics of your research. These will evolve and take focus as your research progresses;
3. The types of sources that you anticipate being relevant to your research. Possibilities include: legislation, case law, documents related to legislative history, academic or policy analysis; and
4. The specific research tools and processes that you plan to use in your research.

The Research Plan is submitted a second time with your Research Paper. This will be the original versions with annotations that explain how your research actually progressed. These comments explain what aspects of the original research plan unfolded as expected, and how your research process changed and evolved as your research progressed. It should explain how you went about your research, and what obstacles and discoveries you made in the process.

The Major Research Paper and Research Guide must be submitted no later than the last day of classes for the term, Thursday April 8th, unless otherwise authorized by the instructor. Such authorization shall not extend the time for submission beyond the end of the examination period on Friday, April 23rd.

3. Legislation Quiz: 15% of final mark

This quiz will be completed in class time and be based on the research processes that have been covered in class.

4. Case Law Quiz: 15% of final mark

This quiz will be completed in class time and be based on the research processes that have been covered in class.

5. Class Participation: 5% of course mark

Class participation will be evaluated by class attendance, participation in class, completion of all legal writing homework, and in the in-class oral presentation on the Research Paper and Research Plan on the last class. Failure to write the two classroom quizzes on the specified dates without prior notification and authorization from the instructor will result in no marks being awarded.

The chart below sets out the letter grades used in the Faculty of Law, their grade point value on a 9.00 point scale and their numerical (%) equivalencies. It also provides narrative descriptions of the levels of student achievement associated with letter grades, as adopted by the Senate of the University of Victoria.

Letter Grade	Grade Point Value	Percentage Value	Narrative Description
A+	9	90-100%	Exceptional, outstanding, and excellent performance, normally achieved by a minority of students. These grades indicate a student who is self-initiating, exceeds expectation, and has an insightful grasp of subject matter.
A	8	85-89%	
A-	7	80-84%	
B+	6	75-79%	Very good, good, and solid performance, normally achieved by the largest number of students. These grades indicate a good grasp of subject matter or excellent grasp in one area balanced with satisfactory grasp in the other area.
B	5	70-74%	
B-	4	65-69%	
C+	3	60-64%	Satisfactory or minimally satisfactory performance. These grades indicate a satisfactory performance and knowledge of subject matter.
C	2	55-59%	
D	1	50-54%	Marginal performance. A student receiving this grade demonstrates a superficial grasp of subject matter.
F	0	49 and below	Unsatisfactory performance.

In addition, please be aware of the following requirements and guidelines.

- To pass this course, students must complete all assignments. See penalties below for failure to do so.
- All assignments will be evaluated on thoroughness, accuracy and clarity of content. Grammar, spelling and citation always count!

- All assignments will be graded by numerical percentage. The final grade for this course will be calculated by adding the weighted numerical grades of all evaluation components and determining the equivalent letter grade for the total of those weighted components.
- Accommodation to ameliorate specific disadvantages affecting a student may be granted consistent with Faculty of Law policy, on application to the course instructor and the Associate Dean.
- Although you are encouraged to work cooperatively with other first year students on all assignments, for this course the written work you submit for evaluation must be your own. To refresh your knowledge of what constitutes plagiarism and academic dishonesty, please consult the university regulations.

The Faculty policy concerning deadlines for assignments is as follows:

“The faculty expects assignments to be submitted on time; students who are unable to meet a deadline are expected to discuss the matter with their professor. Whether or not an extension of time is granted is within the discretion of the professor and conditional upon the student providing a reasonable excuse. Students who fail, without reasonable excuse, to meet deadlines for written assignments may be penalized in accordance with the grading and penalty assessment policy set by the particular professor, filed with the Dean and communicated to the class at the beginning of the class term.

Appeals against rejection of a student request for additional time to complete the paper or appeals against an allegedly unfair penalty assessment scheme may be made to the Studies Committee.”

Law 388 Grading and Penalty Assessment Policy

If you fail to complete and submit an assignment in this course by the scheduled due date/time, without my prior approval of an extension, your grade for that assignment will be reduced by one letter grade for every day, or part of a day, that the assignment is late.

If you fail to complete an assignment in this course you will receive an “F” as your final grade for this course

Plagiarism and Academic Dishonesty

It is a serious academic offence to engage in plagiarism or other forms of academic dishonesty or to assist others in doing so. Note that “multiple submissions” of your own work is an academic offence unless you have obtained prior permission of the instructor. This means that you are not allowed to submit the same work for academic credit in more than one course, regardless of whether or not the other course is taken at this university or at another academic institution.

Plagiarism and other forms of academic dishonesty may lead to disciplinary proceedings and, depending on the circumstances, may result in the imposition of academic penalties ranging from a reprimand, loss of credit for a course, an “F” grade, or temporary or permanent suspension from the Faculty of the University.

Refer to the current *University of Victoria Calendar* for a detailed explanation of what constitutes plagiarism and for reference to other prohibited forms of academic dishonesty and the possible penalties that may be imposed for such infraction.

Classroom Climate

The University of Victoria and the Faculty of Law are committed to promoting, providing and protecting a positive, supportive and safe learning and working environment for all its members. As an instructor, my goal is to establish an inclusive, respectful, and diverse classroom environment in which all class members feel welcomed and equally able to contribute to class discussions. To achieve this, I as an instructor and you as students must endeavor to be respectful in our language, in our examples, and in the manner in which we conduct discussions and group work. If concerns arise during the term about the climate of the class, please feel free to discuss them with the Associate Dean or the instructor.

In relation to the use of laptop computers, please extend me the courtesy of not displaying on your laptops material that is not related to the class.

Illness, Disability, Family Circumstances Accommodation

The Faculty of Law provides reasonable accommodation to students on the basis of factors such as illness, disability, family circumstances, family or personal emergencies or affliction, or other similar special needs, when such factors interfere with the ability of a student to attend or to complete assignments or examinations at regularly scheduled dates or in other circumstances. Accommodation to enable religious observance is also provided. Students should feel free to consult me or the Associate Dean of Academic and Student Relations (Kim Hart-Wensley) regarding such matters.

Other Faculty Regulations and Policies

Students should ensure that they are familiar with all regulations and policies pertaining to their status as students. The academic regulations and policies of the Faculty of Law can be found on the Faculty of Law website at http://www.law.uvic.ca/Current_Students/Academic_Regs/associate_dean.html. Questions about these regulations and policies should be directed to the Associate Dean Academic and Student Relations.

Students should also ensure that they are familiar with relevant regulations contained in the University of Victoria Calendar.

Class Schedule

The following schedule of class topics may change due to the pace at which we proceed through the topics. Revised lists of class topics will be provided if this occurs.

PART I: BACKGROUND KNOWLEDGE AND GETTING READY FOR LEGAL RESEARCH

January 5th, Tuesday

Room 204

Topics:

- Review of course syllabus
- Assignments & Evaluation
- Introduction to Moodle

Classroom: Room 142

January 7th, Thursday

Topic

- Introduction to Legal Research
- Dynamics of the Legal Research Process

Reading:

- Cohen, "Research Habits of Lawyers"

Classroom: Room 142

January 12th, Tuesday

Topic: Knowledge Management

- Zotero
- Endnote

Guest Presenters: Rich McCue and Michael Lines

Classroom: Computer Lab

January 14th, Thursday

Topic: How to write a legal research paper

- Parameters of advanced legal research
- Research Guides

Guest: Professor Gillian Calder

Classroom: Room 142

January 19th, Tuesday

Topic: Issue Identification

Classroom: Room 142

January 21th, Thursday

Topic: Legal Writing I

Reading:

- McLachlin, "Legal Writing: Some Tools"
- *PEL*, chapters 1 & 2

Classroom: Room 142

January 26th, Tuesday

Researching Secondary Sources
Guest: Professor Ben Berger
Classroom: Computer Lab

PART II: RESEARCHING LEGISLATION

January 28th, Thursday

Legislation I: Canadian federal and provincial statutory research

Reading:

- Gleave, "Finding the Right Enactment"

Classroom: Computer Lab

February 2nd, Tuesday

Legislation II:

- Subordinate & Delegated legislation
- Researching and Using Legislative History

Reading:

- Peters, "Research Strategy for Statutory Interpretation"

Classroom: Computer Lab

Research Plan Due

February 4th, Thursday

Legislation: Practice sessions

Classroom: Computer Lab

February 9th, Tuesday

Legislation Quiz

Classroom: Computer Lab

PART III: RESEARCHING CASE LAW

February 11th, Thursday

Topic: WestlawCanada training

Guest: From WestlawCanada

Classroom: Computer Lab

Week of February 15th: Reading Week: No Classes

February 23rd, Tuesday

Topic: Strategic Caselaw Research

- Younger, "Citing Cases for Maximum Impact"
- Wood, "Excessive Citing of Authorities"

Classroom: Room 142

February 25th, Thursday

Topic: Transnational Law: US Caselaw

Reading:

- *MacEllven*, chapter 14
- La Forest, "The Use of American Precedents in Canadian Courts"
- *Wolf v. Pig*

Classroom: Computer Lab

March 2nd, Tuesday

Topic: Lexis Nexis training

Guest: From QL

Classroom: Computer Lab

March 4th, Thursday

Session on the Course Papers

Progress on Research

Comments on content and structure of Research Papers

Classroom: Room 142

March 9th, Tuesday

Topic: Canada Law Book databases training

Guest: From CLB

Classroom: Computer Lab

March 11th, Thursday

Topic: Transnational Law: UK & Commonwealth Law

Classroom: Computer Lab

March 16th, Tuesday

Topic: Legal Writing II

Reading: *PEL*, chapters 3, 4, & 5

Classroom: Room 142

March 18th, Thursday

Topic: Case-based review and practice

Classroom: Computer Lab

March 23rd, Tuesday

Caselaw Quiz

Classroom: Computer Lab

March 25th, Thursday

Topic: Legal Writing III

Reading: *PEL*, chapters 6, 7, & 8

Classroom: Room 142

March 30th, Tuesday

Topic: TBA

Classroom: TBA

April 1st, Thursday

Topic: Transnational Legislative Research

- UK
- US
- Worldlii

Classroom: Computer Lab

April 6th, Tuesday

Topic: Using Foreign, Comparative, and International Law in Legal Research

Classroom: Computer Lab

April 8th, Thursday

Class presentations

Classroom: Room 142

- **Research Paper and Research Plan Due**

↪ End of Class ↪