

Advanced Legal Research and Writing: Law 388
University of Victoria, Faculty of Law
Fall 2011

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, LLP and ALRW classes.

Class time: Monday and Wednesday: 9:00 to 10:30 a.m.

Classrooms: Room 204
Computer Lab (In the Library)

Course Description and Objectives

Law 388 provides students with the knowledge and skills essential to professional legal research. It builds on the research and writing skills learned in first year law. Students explore a wide range of research resources, legal and non-legal, with an emphasis upon computer-assisted legal research. This course provides a foundation for success in the Legal Research and Writing component of the Professional Legal Training Course (B.C.).

The components of the course are as follows:

- Legal Research
 - A conceptual understanding of legal research which will enable students to research any legal topic and research the law in Canadian as well as non-Canadian jurisdictions.
 - A focus on computer-assisted legal research of primary sources of law, both legislation and case law.
 - A focus on research using secondary sources.
- Legal Writing
 - A conceptual understanding of legal writing.
 - An analysis of practical ways to improve legal writing, developed through the completion of exercise to improve legal writing.

The skills covered in the components of the course will be developed through exercises that provide practice in legal research.

Texts

Required

1. Beverley Nash, *Legislation Made Easy*, 3rd ed (Victoria: Crown Publications, Queen's Printer, 2009).

- Richard Wydick, *Plain English for Lawyers*, 5th ed (Durham, North Carolina: Carolina Academic Press, 2005). (*PEL*)

Material on Reserve

- Wayne Booth, Gregory Colomb & Joseph Williams,. *The Craft of Research*, 3rd ed (Chicago: University of Chicago Press, 2008).
- Continuing Legal Education Society of British Columbia. *Legal Research Handbook* 2004 and 2009.
- McGill Law Journal, *Canadian Guide to Uniform Legal Citation* , 7th ed (Toronto: Carswell, 2010).
- William Strunk & E B White, *Elements of Style*, 4th ed (Boston: Allyn & Bacon, 2000).

In preparation for classes you are expected to read the required readings listed in the class schedule, and 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. The lectures will present concepts and theory with respect to legal research and legal writing, explain the structure of secondary sources. The classroom exercises will give are designed to allow you to practice and develop your legal research and writing skills. Students are strongly encouraged to engage with the material through asking questions and engaging in class discussions. Several guest speakers will present to the class on specific aspects of legal research and writing.

Evaluation

The following table presents the weights, distribution dates and due dates for the assignments in the course.

Assignment	Value	Distributed / Exam Date	Due
Major Research Assignment	50%	September 7	December 2
Research Plan	15%	September 7	October 5 & December 2
Legislation Quiz	15%	October 12 Date subject to change	
Case Law Quiz	15%	November 16 Date subject to change	
Class Participation	5%		

Assignments

1. Research Paper: 50% of final mark

Students select their topic for this assignment in consultation with the instructor. If the research is done on a topic provided by an outside client, a copy of the paper will be forwarded to the client who requested the research.

The focus and purpose of this course is to develop your skills in legal research and writing and therefore it is best to choose a topic that provides you with an opportunity to develop and apply your legal research skills. The range and types of topics is very broad. It is best to choose a topic that requires you to research a variety of materials such as legislation, regulations, case law, secondary sources and which require you to use a variety of research tools. Papers that are purely descriptive and lack depth of analysis will tend to receive lower grades.

A very common problem is 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
Endnotes:	10 pt. Times New Roman

The page limit does not include the title page, the bibliography, and any appendices or supplementary material. I recommend an appendix if your paper references statutory provisions or lengthy case excerpts. The page limit does include endnotes.

The Research Paper and Final Research Guide must be submitted no later than the last day of classes for the term, Friday December 2nd, unless authorized by the instructor. Such authorization shall not extend beyond the time for submission beyond the end of the examination period December 16th.

Research Plan: 15% of final mark

The Research Plan is an assignment that accompanies your Research Paper. It is submitted twice in two separate forms.

The first version is due on October 5th 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. The general 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, document related to legislative history, academic issues, or policy analysis; and
4. The specific research tools, techniques, databases, and processes that you plan to use in your research.

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

The Research Paper and Research Guide must be submitted no later than the last day of classes for the term, Friday December 2nd, unless authorized by the instructor. Such authorization shall not extend beyond the time for submission beyond the end of the examination period December 16th.

3. Legislation Quiz: 15% of final mark

This quiz will be completed in class time and will be based upon the lecture material, readings, and exercises covered in class.

4. Case Law Quiz: 15% of final mark

This quiz will be completed in class time and will be based upon the lecture material, readings, and exercises covered in class.

5. Class participation: 5% of course mark

Class participation will be evaluated on class attendance, participation in class, completion of all legal writing homework, and the in-class presentations on your Research Paper. 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 scale and their numerical (%) equivalencies. It also provides narrative descriptions of the levels of student achievement associated with letter grades, as adopted by the University Senate.

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 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 by consistent with Faculty of Law policy, on application to the course instructor and the Associate Dean.

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 (Professor Heather Raven) 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, http://law.uvic.ca/current/academic_regs.php. 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 term. Revised lists of class topics will be provided if this happens.

We will be holding joint classes with the other section of ALRW in order to accommodate some of the speakers who will be presenting in the course. This will lead to holding these classes on a Friday morning and cancelling classes in the usual time slots.

Part I: Background to Legal Research & Course Preparation

September 7th, Wednesday

Topics:

- Introduction to ALRW
- Review of course syllabus
- Assignments & evaluation
- Introduction to Moodle and course website

Classroom: 204

September 12th, Monday

Topics:

- Introduction to legal research
- The nature and dynamic of the legal research process
- Issue identification (???)

Reading:

- Cohen, "Research habits of lawyers"

Classroom: 204

September 14th, Wednesday

Topic: Knowledge Management

- Zotero
- Endnote

Guest Presenters: Rich McCue and Michael Lines

Classroom: Computer Lab

September 19th, Monday

Topic: How to write a legal research paper

- Parameters of advanced legal research
- Research Guides

Guest: Professor Gillian Calder
Classroom: 204

Part II: Researching Legislation

September 21st, Wednesday

Topics:

- Introduction to Canadian Statute Research
- Research BC provincial legislation and legislative history

Reading:

- Gleave, "Finding the Right Enactment"

Classroom: Computer Lab

September 26th, Monday

Topics:

- Introduction to Canadian Statute Research
- Research BC provincial legislation and legislative history

Guest: QP Legaleze

September 28th, Wednesday

Topics:

- Introduction to Canadian Statute Research
- Research federal legislation and legislative history

Reading:

- Peters, "Research Strategy for Statutory Interpretation"

Classroom: Computer Lab

October 3rd, Monday

Topic: LexisNexis/QL training

Guest: Angeline Han

Classroom: Computer Lab

October 5th, Wednesday

Legislation Practice Session

Classroom: Computer Lab

First Draft of Research Plan Due

October 12th, Wednesday

Legislation Quiz: the date of the quiz is subject to change

Classroom: Computer Lab

Part III: Legal Writing

October 17th, Monday

Topic: Legal Writing I

Reading:

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

October 19th, Wednesday

Topic: Legal Writing II

Guest:

Classroom: 204

October 24th, Monday

Topic: Legal Writing III

Reading:

- *PEL*, chapters 3, 4, & 5

Guest:

Classroom: 204

October 26th, Wednesday

Topic: Legal Writing IV

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

- Review of practice exercises

Classroom: 204

October 31th, Monday

Topic: Legal Writing V

Workshop on Analyzing and Improving Legal Writing

Classroom: 204

Part IV: Researching Case Law

November 2nd, Wednesday

Topic: Strategic case law research

- Younger, "Citing cases for maximum impact"
- Wood, "Excessive citing of authorities"

Classroom: 204

November 7th, Monday

Topic: Westlaw Canada training
Guest: Allan Akizuki
Classroom: Computer Lab

November 9th, Wednesday

Topic: Case-based review and practice
Classroom: computer lab

November 14th, Monday

Topic: Case-based review and practice
Classroom: computer lab

November 16th, Wednesday

Caselaw Quiz: The date of the Quiz is subject to change
Classroom: Computer Lab

Part V: Course Wrap Up

November 21st, Monday

Topics (???)

- Issue Identification
- Researching Quebec law
- Researching NAFTA Law
- Research Foreign, Comparative & Intl Law

Classroom: TBA

November 23rd, Wednesday

Topics (???)

- Issue Identification
- Researching Quebec law
- Researching NAFTA Law
- Research Foreign, Comparative & Intl Law

Classroom: TBA

November 28th, Monday

Topics:

- Class Presentations

Classroom: 204

November 30th, Wednesday

Topics:

- Class Presentations
- Classroom: 204

December 2nd: Research Paper and Final Draft of the Research Plan Due