

**University of Minnesota Law School**  
**First-year Skills (Legal Writing) – Section 9, Larson/Sobotka**  
**Overview of objectives and grading for class year 2006-07**

Revised September 5, 2006

The first-year skills program in Section 9 consists of five major projects: 1) Preliminary training in analysis (Preliminary Training); 2) Fall closed predictive memorandum (Fall Closed Memo); 3) Fall open predictive memorandum (Fall Open Memo); 4) Spring persuasive brief (“Spring Brief”); and 5) Oral Performance (including in-class discussion and spring oral arguments). We will give you one grade for each of these projects.

Legal writing is a pass/fail course. On each project, we will give you an informal grade – Satisfactory, Very Good, Outstanding (and perhaps in rare cases Unsatisfactory). This grade represents our evaluation of your work against the “gold standard” we imagine for legal writing students. There is thus no ‘curve’; there can be 12 Outstandings or 12 Satisfactories on the same assignment. You must earn at least a Satisfactory on each project to pass the course.

Legal writing instructors are called on, however, to make evaluations of students *relative to each other* when writing letters of recommendation in the spring for students seeking moot court appointments, summer jobs, etc. We must also select two honors recipients, a best brief nominee, and a best oralist nominee at the end of the year based on relative performance. To ensure those relative evaluations are based on students’ performance in the class, we will maintain for our own use a grading sheet that shows us your relative performance on each assignment.

You already know how to write, so why are you in “legal writing”? “Legal writing” is a misnomer; this is really first-year skills training. Here is a table showing each competency you must learn this year, how we’ll teach it to you, and how we’ll evaluate your acquisition of it.

Competency	How we’ll teach it	How we’ll evaluate it
<b>LEGAL ANALYSIS</b>		
1. “Tell the story” of the problem scenario, including all potentially relevant facts (W5H)	C/L Chapters 1 & 2 Class discussion	Class discussion, Preliminary Training assignments, Fall Memos, Spring Brief, Oral Arguments
2. Ascertain the question you are attempting to answer and phrase it in legal terms	Lecture Class discussion Optional Research Methods lecture in fall	Class discussion, Preliminary Training assignments, Fall Memos, Spring Brief, Oral Arguments
3. Assess what law (state/federal, enacted/common) will govern resolution of problem	C/L Chapter 3 Class discussion	Class discussion, Fall Memos, Spring Brief, Oral Arguments
4. Determine what constitutes binding law for resolution of the problem	C/L Chapter 3 Class discussion	Class discussion, Fall Memos, Spring Brief, Oral Arguments
5. Where you must use non-binding (persuasive) authorities, select the most effective	Lecture Class discussion	Class discussion, Fall Memos, Spring Brief, Oral Arguments

Competency	How we'll teach it	How we'll evaluate it
6. Parse a statement of a rule	C/L Chapter 4 Class discussion	Class discussion, Preliminary Training assignments, Fall Memos, Spring Brief, Oral Arguments
7. Identify the rule of a case a. Formulate a statement of the rule, reconciling variations of statements of the rule within the case, if any b. Understand how the facts found in the case may affect your use of the holding c. Understand how the procedural posture of the case may affect your use of the holding d. Understand how the weight and timing of the case may affect your use of the holding	C/L Chapter 4 Class discussion Lecture	Class discussion, Preliminary Training assignments, Fall Memos, Spring Brief, Oral Arguments
8. Find the rule from a group of cases (finding the 'center of gravity' or 'SYNTHESIS') a. Formulate a statement of the rule, reconciling variations of statements of the rule within the cases, if any b. Understand how the facts found in the cases may affect your use of the holding c. Understand how the procedural posture of the cases may affect your use of the holding d. Understand how the weight and timing of the cases may affect your use of the holding	C/L Chapter 5 Class discussion Lecture	Class discussion, Preliminary Training assignments, Fall Memos, Spring Brief, Oral Arguments
9. Assemble a case rule where cases are in direct conflict	C/L Chapter 6	Depending on this year's problems, we may not actually address a scenario of direct conflict
10. Assemble a case rule in a case of first impression	C/L Chapter 6	Depending on this year's problems, we may not actually address a scenario of first impression
11. Use analogical reasoning: Compare and contrast facts in problems to those in applicable cases to predict/argue for the outcome	C/L Chapter 5 Class discussion Lecture	Class discussion, Preliminary Training assignments, Fall Memos, Spring Brief, Oral Arguments
12. When predicting or arguing for an outcome, consider the implications if your position prevails or fails (POLICY) a. What facts about your problem scenario are likely to vary from it in other cases? b. If the facts in your problem are changed slightly, how will that impact your predicted/proposed resolution? c. If similar cases are decided as you predict/urge, will things be better or worse for the legal system, the economy, the world, etc.?	Class discussion Peer review Instructor feedback	Class discussion, Preliminary Training assignments, Fall Memos, Spring Brief, Oral Arguments
13. Understand how to deal with statutory ambiguity	C/L Chapter 7 Class discussion Instructor feedback	Spring Brief, Oral Arguments

Competency	How we'll teach it	How we'll evaluate it
<b>LEGAL RESEARCH</b>		
14. Understand difference between primary and secondary authorities	C/L Chapter 3	Your citations to authority in Fall Open Memo and Spring Brief will indicate your understanding
15. Use a legal dictionary to ensure you understand the legal meanings of words	We'll assume you know how. Ask if you have questions	Your use of terms in class and in your writing will indicate your understanding of their meanings
16. Use secondary authorities, such as legal encyclopedias, to orient yourself in a body of law before analyzing cases and conducting detailed research.	Library staff workshops held in fall Optional Research Methods lecture in fall	We will be largely unable to evaluate this. However, efficient early research increases the probability that your written work will include better citations and benefit from more thoughtful drafting.
17. Use secondary authorities, such as ALRs, law review articles and Restatements, if applicable, to develop strategies for your legal problems	Library staff workshops held in fall Lecture Optional Research Methods lecture in fall	See previous entry
18. Use exactly the number of primary authorities needed to make your point best	Experience will teach you this We will provide frequent feedback	Fall Open Memo and Spring Brief
19. Document your research to prevent re-tracing steps and to defend against malpractice claims	Lecture Optional Research Methods lecture in fall	You will turn in research logs for Fall Open Memo and Spring Brief projects, "showing your work" in research
20. Update your research to prevent embarrassment and malpractice	Online research training sessions	(Depending on the problems in this year's class and the real world cases out there, we may or may not be able to evaluate this one.)
<b>WRITTEN PRESENTATION</b>		
21. Present analysis using the IRAC format – employ "road-mapping" to ensure your audience knows where you are going and what route you are taking, without being excessively repetitive	C/L Chapter 8	Fall Closed Memo, Fall Open Memo, Spring Brief
22. In predictive analysis: a. Write with understanding of whether lay client, lawyer client, or internal law firm audience will read b. Identify the problem in lay terms and in legal terms c. Provide a brief answer to the question d. Be an objective advisor e. Assess legal risks so <i>your client</i> can decide what to do f. Seek ways to say 'yes' to your client g. If you must say 'no', try to offer alternatives	C/L Chapter 11 Class discussion Peer review Instructor feedback	Fall Closed Memo, Fall Open Memo

Competency	How we'll teach it	How we'll evaluate it
<p>23. In persuasive analysis:</p> <ol style="list-style-type: none"> <li>Identify the standard of review or burden of proof you must satisfy</li> <li>Write with understanding of the nature of the tribunal</li> <li>Propose an outcome or solution</li> <li>Offer solutions favorable to your client</li> <li>Advocate - show why uncertainties should be resolved in your client's favor</li> <li>Make strong use of the 'story' in your problem – good facts make good law</li> <li>Begin with strong arguments</li> </ol>	<p>C/L Chapter 12  Class discussion  Peer review  Instructor feedback</p>	<p>Spring Brief</p>
<p>24. Format papers as you have been instructed, with attention to all specified details</p>	<p>Handouts regarding formatting</p>	<p>Fall Closed Memo, Fall Open Memo, Spring Brief</p>
<p>25. Write in an accessible style readily comprehensible to your audience</p> <ol style="list-style-type: none"> <li>Write concisely</li> <li>Write with precision</li> <li>Write using active voice except where passive voice is especially useful</li> <li>Try to use "subject-verb" word order in sentences, except where impractical or to avoid monotony</li> <li>Avoid legalese ("heretofore," "thereupon," etc.)</li> <li>Each of your sentences should express an idea; each paragraph, a set of closely related ideas supporting a point</li> <li>Where possible, make use of topic and summary sentences at the beginnings and ends of your paragraphs</li> </ol>	<p>C/L Chapter 9  Class discussion  Handouts  Peer review  Instructor feedback</p>	<p>Fall Closed Memo, Fall Open Memo, Spring Brief</p>
<p>26. When writing about cases, use introductory material to the extent necessary to acquaint the reader with the case. Generally, follow these rules:</p> <ol style="list-style-type: none"> <li>For a case stating a widely accepted, formulaic rule (like a standard of review), state the rule and cite to the case</li> <li>For any case you use in support of your argument, indicate the identity of the parties, the cause of action stated, the procedural posture, the trial and appellate court decisions, and the facts to which you will draw analogies, each to the extent necessary. You should be able to do this in a sentence or two.</li> <li>For any case central to your analysis, provide all the information in (b) and add discussion of the court's analysis and policy rationales.</li> </ol>	<p>Lecture  Class discussion</p>	<p>Fall Closed Memo, Fall Open Memo, Spring Brief</p>

Competency	How we'll teach it	How we'll evaluate it
27. Use citations properly: include cites wherever necessary; provide sufficient information to locate cites in sources; use short forms for efficiency's sake; <i>use Blue Book format.</i>	C/L Chapter 10 Lecture Class discussion Handouts Instructor feedback Peer review	Fall Closed Memo, Fall Open Memo, Spring Brief
28. Proofread your work and the work of others for accuracy, effective writing, and proper citation form	Instructor feedback Peer review	Fall Closed Memo, Fall Open Memo, Spring Brief
<b>ORAL PRESENTATION</b> 29. Manage discourse with your interrogator (whether teacher, client, judge, or other) a. Repeat, rephrase or recast the question to ensure you know what the interrogator wants b. Refine question if it has multiple parts; select part where you can provide strongest answer first c. If necessary, perform your analysis "out loud" to permit you time to properly cast your response	Lecture Class discussion Instructor feedback Optional attendance at oral arguments	Class discussion Oral argument on Spring Brief
30. When possible, answer "yes" or "no" followed by an explanation or argument	Class discussion Optional attendance at oral arguments	Oral argument on Spring Brief
31. Smile, be cheerful and don't behave as if you are afraid of the interrogator – even if you are terrified	Class discussion Optional attendance at oral arguments	Oral argument on Spring Brief
32. Show all persons the deference they are due. e. Refer to parties and witnesses as "Mr." and "Ms." (or "Mrs." if a married woman has expressed a preference for that title) f. Address judges as "your honor." ("Sir" or "Ma'am" will do in a pinch) g. Refer to judges not present as "Justice Blackmun" or "Judge Doty," not merely by their last names	Class discussion Optional attendance at oral arguments	Class discussion Oral argument on Spring Brief