

**JD 054-1**  
**Lawyering Skills I: Objective Analysis, Writing, and Research**  
The John Marshall Law School  
Professor David E. Sorkin  
Spring 2018

**SYLLABUS**

**Overview**

This course provides an introduction to objective legal analysis. You will learn precedential, rule-based, policy-based, and factual reasoning, and will learn to perform basic legal research using case law, statutes, and other materials.

You will learn and apply the skills of legal analysis, research, and writing by preparing a series of objective legal memoranda and other exercises. The first legal memorandum is a closed-universe assignment, to be completed using a packet of research material that will be provided to you. For the remaining memorandum assignments, you will complete the necessary research on your own. You will also be required to complete several supplemental exercises, focusing primarily on legal research and citation.

Class will meet on Tuesdays and Thursdays at 1:00 pm.

**Instructor**

David E. Sorkin, Associate Professor of Law  
Office: C-924 (CBA Building, 321 S. Plymouth Ct., room 924)  
Telephone: (312) 987-2387  
Email: [7sorkin@jmls.edu](mailto:7sorkin@jmls.edu)  
Office hours: Tuesdays 10:00 am–12:50 pm, and by appointment

**Textbooks**

**Required texts:** There are three required textbooks for the course.

- Helene S. Shapo et al., *Writing and Analysis in the Law* (6th ed. 2013) (Foundation Press, ISBN 978-1-60930-272-6, list \$128)

- Beau Steenken & Tina M. Brooks, *Sources of American Law: An Introduction to American Legal Research* (3d ed. 2017) (Center for Computer-Assisted Legal Instruction, free download; printed copy available for purchase from Lulu.com)
- *The Bluebook: A Uniform System of Citation* (Columbia Law Review Ass'n et al. eds., 20th ed. 2015) (Harvard Law Review Ass'n, ISBN 978-0-692-40019-7, list \$38.50)

You may be able to find used copies of one or more of these, but be sure that you are buying the current editions.

Additional recommended texts and resources are listed on the class website.

## Course Policies

In addition to the policies set forth below, you will also need to consult the Lawyering Skills Course Rules and Ethics Guidelines, posted on the class site, and institutional policies, posted at <http://www.jmls.edu/policy/>.

**Attendance:** Attendance at and preparation for each class meeting is required and expected. You will be considered to have attended a class meeting only if you are present both at the beginning of class and when the class is dismissed. You will not receive credit for the course if you miss more than the maximum number of class sessions as provided by law school policy. Students will be held responsible for all material covered or handed out in class and all announcements made during class, whether or not an absence is excused.

**Online legal research instruction:** Students are required to attend several online legal research instruction sessions. Information about these sessions will be posted on the class site.

**Grading:** The course grade will be determined based upon three written memorandum assignments, although students also must complete several supplemental exercises in order to pass the course. At the end of the semester I will calculate course grades based upon the memorandum grades, weighed at 25%, 35%, and 40%, respectively. I try to give students a general idea of how well they performed on each assignment, but do not provide specific data about rankings and ranges in order to protect students' privacy and discourage competition.

**Submission of assignments:** Assignments are to be submitted online through the class site. Memorandum assignments should be in Microsoft Word format.

**Late policy:** Each graded memorandum assignment and the draft of the first memorandum assignment must be submitted promptly by the due date. Any request for an extension of time must be supported by valid reasons and should be submitted as early as possible. **Late papers will be penalized by a deduction of one full letter grade for each 24 hours or portion thereof that a paper is late, excluding Sundays.** The deduction will be made at the time semester grades are calculated. Any penalty for late submission of the draft of the first memorandum assignment will be deducted from the grade for the final draft of that assignment. Late penalties will be waived or reduced only for good cause submitted contemporaneously in writing or via email, with appropriate documentation (including a copy of your work in progress). Graded papers will normally be handed back two weeks after the due date, and papers therefore will not be accepted after that time. **If you do not submit a graded assignment within two weeks after the due date, you will not receive credit for it, and therefore will not be able to pass the course.** You should try to submit the supplemental exercises by the listed due dates, but they may be submitted without penalty as late as the last scheduled class meeting. For more information, see Late Work and Extension Requests, posted on the class site. In particular, back up your work frequently; don't wait until the last minute to complete the assignments; and have a contingency plan in place should you experience computer or Internet problems.

**Plagiarism and collaboration:** Plagiarism and other forms of academic dishonesty will not be tolerated in this course. Consult the Lawyering Skills Course Rules and Ethics Guidelines for detailed information about these issues. On research and citation exercises, you may discuss the exercises with other students and work together in completing them, but you may not divide the problems among members of a group and then copy the answers. (Identical incorrect answers submitted by two or more students may serve as evidence of such copying.) On the memorandum assignments, you may discuss research strategies, legal concepts, problems, and potential arguments with other students in the class at any time, but you may not collaborate in the writing process. You may also seek assistance from the instructor, the law school library staff, and the Writing Resource Center. You are encouraged to discuss the memorandum assignments with other people and seek their feedback on your writing, but you may do so only **after** you have submitted each assignment.

**Tutorial conferences:** I normally will be available to assist students on a walk-in basis during my office hours. At certain times during the semester, however, I will ask you to make an appointment for an individual tutorial conference. These conferences are intended to provide you with individual feedback on your writing assignments to supplement my written comments, to give you an opportunity to receive help with specific writing and analytical problems, and to help you learn what you can do to improve your performance on future assignments.

**Out-of-Class Work:** The amount of instructional time and out-of-class work that corresponds to each hour of academic credit is governed by accreditation standards and federal regulations, and the law school has implemented policies consistent with these rules. This is a 3-credit course, and the semester is 13 weeks long excluding the reading and exam periods. You should expect to spend about 90 or more hours on out-of-class work over the course of the semester, or an average of at least 7 hours per week.

**Recording Policy:** The law school's policy on class recordings is posted at <http://www.jmls.edu/policy/>. The policy sets forth the grounds upon which a student may request that the law school record a class meeting, and the procedure for requesting a school-made recording. Because of the nature of this class, student-made recordings are not permitted. Any violation of this rule will be considered a violation of the Student Code of Conduct.

## Learning Outcomes

**Mastery:** Students are expected to master the following skills by the time they complete this course. Students should be able to perform these skills satisfactorily without any further instruction, at a competency level of a first-year attorney.

1. Students will recognize and apply basic concepts of federalism and the three branches of government.
2. Students will recognize, differentiate between, and apply concepts related to sources of law, and explain or apply how each is applied and enforced, and how they relate to one another.
3. Students will identify and apply concepts related to the basic structure and function of the American court system.
4. Students will recognize and apply basic concepts regarding jurisdiction, hierarchy, and weight of authority.
5. Students will strategize legal analysis by taking into account the hierarchy and relative weight of authority as appropriate for the jurisdiction and the client's particular issue.
6. Students will employ and document effective and efficient research strategies, including the production of research plans and research trails.
7. Students will recognize the obligation, and employ appropriate strategies, to update and validate sources.
8. Students will cite to every legal proposition.

9. Students will employ accurate citation format.
10. Students will accurately format quotations.
11. Students will write a legal memorandum that accomplishes the following:
  - a. Articulates a thorough and complete question presented that identifies the relevant source of law, legal question, and legally significant facts;
  - b. Predicts a result for the client;
  - c. Organizes the discussion section around a synthesized rule of law;
  - d. Employs a deductive framework for large- and small-scale organization (overview and thesis paragraphs);
  - e. Applies the law clearly and thoroughly, referencing the relevant authority and its relationship to relevant client facts and illustrating analysis and counter-analysis.

**Competency:** Students are expected to reach minimal competence in the following skills by the end of the course. Students should be able to perform these skills satisfactorily, and may be assessed on these skills, but will have further opportunities for practice in subsequent courses.

1. Students will synthesize authorities into legal principles with elements, factors, or conditions, as appropriate.
2. Students will apply synthesized legal principles to the client's factual scenario, analogizing and distinguishing legal sources to the client's facts, as appropriate.
3. Students will identify, discriminate between, and select appropriate and conventional frameworks for legal analysis, including text-based, analogical, narrative, and policy-based reasoning.
4. Students will recognize the range of possible outcomes or solutions for client problems, including reasonable arguments and counterarguments, and will produce reasonable predictions as to the resolution of a client matter, including available alternative courses of action.
5. Students will be able to locate, discriminate between, and use basic sources of legal authority, including primary and secondary authority, to select legally relevant and factually relevant sources for a particular issue.
6. Students will determine when research has been exhaustive in the jurisdiction, and when it has been exhaustive beyond the jurisdiction, given the time and financial limitations of law practice.
7. Students will accurately use signals.

8. Student will accurately use explanatory parentheticals.
9. Students will accurately use citation formats for embedded sources.
10. Students will identify and distinguish between conventional legal documents, including the purpose of a particular document and how the purpose affects content and approach, and be able to craft those documents according to their conventional frameworks.
11. Students will employ appropriate large-scale organization.
12. Students will employ appropriate small-scale organization.
13. Students will accurately and effectively communicate legal argument, including analysis and counter-analysis.
14. Students will use topic and thesis sentences and appropriate transitions to create coherence.
15. Students will craft legal documents that are clear and concise and that employ appropriate tone and purpose.
16. Students will observe law school and court rule, procedures, conventions, and etiquette.
17. Students will recognize and address limits on expertise with respect to legal analysis, research, and conventional forms of lawyering communication.
18. Students will recognize and apply the ethical and professional obligations associated with conventions of attribution.
19. Students will identify and follow work priorities and scheduling systems related to time and resources in order to achieve objectives.
20. Students will memorialize events and communications.
21. Students will develop legal documents required of a first-year attorney in specific practice areas.
22. Students will identify and effectively use technology that is relevant to the practice of law.

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## **Semester Schedule**

### **Week 1 (January 23 & 25):**

- Read chapters 1 and 2 in *Writing and Analysis in the Law*.

**Week 2 (January 30 & February 1):**

- Read chapters 4 through 8 in *Writing and Analysis in the Law*.
- Read Memorandum Assignment 1.
- Prepare a brief of the first case in the list of authorities by Tuesday, January 30.
- Prepare a rough outline of the issues in the memorandum assignment by Thursday, February 1.

**Week 3 (February 6 & 8):**

- Read chapters 9 and 10 and appendix A in *Writing and Analysis in the Law*.
- Read pages 1–4 and the inside back cover of *The Bluebook: A Uniform System of Citation*.

**Week 4 (February 13 & 15):**

- **A draft of Memorandum Assignment 1 is due at 10:00 am on Tuesday, February 13.**
- Read chapter 1 in *Sources of American Law*.
- Read appendix B1 in *Writing and Analysis in the Law*.
- Read Bluepages Rules B1–B10 (pp. 3–17) in *The Bluebook*.

**Week 5 (February 20 & 22):**

- Read chapter 6 in *Sources of American Law*.
- Tutorial conferences on the first memorandum assignment.

**Week 6 (February 27 & March 1):**

- Exercise 1 is due on Tuesday, February 27.
- Read chapters 5 and 7 in *Sources of American Law*.

**Week 7 (March 6 & 8):**

- Online legal research instruction session (schedule to be announced)
- **Memorandum Assignment 1 is due at 10:00 am on Tuesday, March 6.**

**Week 8 (March 20 & 22):**

- Online legal research instruction session
- Exercise 2 is due on Tuesday, March 20.
- Read chapter 3 in *Sources of American Law*.

**Week 9 (March 27 & 29):**

- Online legal research instruction session
- Exercise 3 is due on Tuesday, March 27.
- Read chapter 3 in *Writing and Analysis in the Law*.
- Read chapter 2 in *Sources of American Law*.

**Week 10 (April 3 & 5):**

- Online legal research instruction session
- **Memorandum Assignment 2 is due at 10:00 am on Thursday, April 5.**

**Week 11 (April 10 & 12):**

- Exercise 4 is due on Tuesday, April 10.
- Read chapter 11 in *Writing and Analysis in the Law*.

**Week 12 (April 17 & 19):**

- Exercise 5 is due on Tuesday, April 17.
- Prepare Part A of Exercise 6 to discuss in class on Tuesday, April 17.

**Week 13 (April 24 & 26):**

- Exercise 6 (Part B) is due on Tuesday, April 24.
- **Memorandum Assignment 3 is due at 10:00 am on Saturday, April 28.**