INTRODUCTION

Lawyers influence others primarily through writing. Lawyers do many different types of writing to many different audiences, including judges, clients, and other lawyers. But lawyerly writing often occurs when a lawyer analyzes a legal question and then recommends a course of action in the form of a written legal memo.

Although most legal memoranda are confidential and not widely shared, one set of legal memoranda earned some notoriety. The “Torture Memos” were a set of legal memoranda written by Deputy Assistant Attorney General of the United States John Yoo advising the CIA that “enhanced interrogation techniques”—mental and physical torment and coercion such as prolonged sleep deprivation, binding in stress positions, and waterboarding—although widely regarded as torture, might be legally permissible under an expansive interpretation of presidential authority. [https://en.wikipedia.org/wiki/Torture_Memos](https://en.wikipedia.org/wiki/Torture_Memos). Most legal memoranda do not become quite as notorious as the Torture Memos, but they illustrate the ubiquity and the influence of legal memos in the world of lawyers.

In this course you will learn how to write clear and effective legal memoranda on the way to learning many essential professional skills: legal analysis and reasoning, critical thinking, legal research, legal citation, problem solving, and written and oral communication in a legal context. You will also begin to exercise professional judgment, including recognizing and resolving ethical and other professional dilemmas. In fact, after the Torture Memos came to light, the ethics of lawyer-author John Yoo came under intense scrutiny.¹

Next summer, when you’re working for a lawyer, you’re likely to be asked to analyze a legal problem and write a memo. This course will prepare you to do that: you will know how to find the applicable law, to analyze and apply it to the legal problem, to predict how a court is likely to rule, to recommend a course of action, and to communicate your analysis in writing using standards and conventions of the legal profession. Legal analysis and writing may be very

¹ After a five-year investigation, the Justice Department concluded that John Yoo used flawed legal reasoning but had not engaged in professional misconduct. [http://www.nytimes.com/2010/02/20/us/politics/20justice.html?_r=0](http://www.nytimes.com/2010/02/20/us/politics/20justice.html?_r=0)
different from the analysis and writing you have done before. Be open to understanding those differences and to learning the new skills.

**STUDENT LEARNING OUTCOMES**
The American Bar Association has identified certain competencies that students should acquire in law school, including these:

- Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context.

- Exercise of proper professional and ethical responsibilities to clients and the legal system.

- Other professional skills needed for competent and ethical participation as a member of the legal profession.

*ABA Standards for Legal Education, Standard 302*

**If you do the work required of you in this class, you’ll develop these competencies in these ways:**

- **legal analysis and reasoning**
  - Students can do the following:
    - identify and outline a legal rule
    - synthesize multiple legal authorities into a coherent rule
    - identify a legal issue in a client situation
    - classify and weigh client facts by legal relevance as applied to the rules
    - build analogies (or make distinctions) between cases and client facts
    - predict a client outcome through application of legal rules

- **legal research**
  - Students can do the following:
    - identify the major forms of primary and secondary legal authority
    - design a research strategy to address a client problem
    - find appropriate authorities to address a legal problem
    - explain the relative persuasive value of various authorities, i.e. hierarchy of authority

- **problem-solving**
  - Students can do the following:
    - analyze a client’s legal problem and predict how a court is likely to rule
    - identify a range of possible solutions to a client’s legal problem
• identify advantages and disadvantages to possible responses to a legal problem

• written and oral communication in the legal context
  o Students can do the following:
    ▪ write a document that provides a clear and concise objective legal analysis
    ▪ demonstrate an ability to write with clarity, precision, and conciseness
    ▪ tailor writing to the expectations of their audience
    ▪ cite legal authorities using a conventional legal citation format

• exercise of proper professional and ethical responsibilities to clients and the legal system
  o Students will demonstrate an understanding of the lawyer’s duties of candor and competence owed to a client

• other professional skills needed for competent and ethical participation as a member of the legal profession (e.g. organization, time management, collaboration, self-reflection)
  o Students can do the following:
    ▪ Exhibit professionalism when working in collaborative groups and in writing
    ▪ Review their own work to identify strengths and areas for improvement
    ▪ Incorporate feedback in subsequent work product
    ▪ Conform to an audience’s requirements for timeliness and format.

REQUIRED MATERIALS

  o Neumann & Tiscione, Legal Reasoning and Legal Writing (7th ed., Aspen)
  
  o The Bluebook: A Uniform System of Citation (Columbia Law Review Ass’n eds., 20th ed. 2015)
  
  o Core Grammar for Lawyers: You should already have purchased and begun this program.
  
  o Microsoft Word. UC students can download this program for free.
    http://www.uc.edu/ucit/students/email/Windows.html

RECOMMENDED MATERIALS


• This useful reference is an exhaustive guide to conventions of legal writing style. We will not use this book in class, but many law students and lawyers find it to be a valuable reference. The author is considered the leading expert on legal writing; he’s the editor of Black’s Law Dictionary, and among his many books on writing are two that he co-wrote with Justice Antonin Scalia. It will answer virtually any question you
have about the “right” way to write something. I suggest you buy rather than rent this book; it’s one of the very few books you’ll buy for law school that you will continue to use throughout law school and for many years in your law practice. The newest edition—the 3rd—is available on Amazon for $45, but you can likely find an older edition for less.


- This helpful guide will make working with the notoriously confusing Bluebook a little easier. The 3rd Edition was released in the summer of 2015 and is available on Amazon for around $26.

Both books are available in the law school library for your review, and both books would be valuable references that you’d continue to use well after the first year of law school. Although you’ll find the newest editions of both books for sale, you might be able to find older editions at a discount, and the content will be similar.

**READING ASSIGNMENTS**

I will assign readings each week as the semester progresses. Most of the reading from the texts occurs early in the semester; later in the semester we will focus less on reading about new skills and more on using the skills. Later in the semester most of your reading will be from judicial opinions.

**WHAT YOU CAN EXPECT FROM ME**

I am eager to help you learn this new way of thinking, reading, and writing. If you have questions or don’t understand the material or what I expect from you, please ask me. I stay after class to answer questions, and you’re welcome to stop by my office any time. I’m also happy to schedule appointments between 9 a.m. and 3 p.m., Monday through Friday. You can reach me most quickly through email at Michele.bradley@uc.edu. The faculty administrative assistant, Mindy Lawson, can be reached at 556-0090 or at mindy.lawson@uc.edu.

I typically start class by outlining the topics we’ll cover that day and making announcements about assignments, schedules, and the like. If you arrive late, you’ll miss these important announcements. Each class usually involves a short lecture (I try to keep that to a minimum) and some activity that allows you to practice a skill, e.g. a class discussion or debate, small group in-class projects, or individual exercises.

I assign several short written assignments during the semester, and we spend some class time reviewing examples. A few sessions will be devoted to research instruction. I use very little Socratic-style teaching, although I will ask questions based on the assigned readings. As compared to your other classes, the readings from the text will be much shorter, but you’ll have many more non-reading assignments, which help you to learn and practice essential
lawyering skills of legal research, analysis, and writing.

Many students enjoy the change of pace that their legal writing class brings to their week, and some students even tell me it’s fun!

**WHAT I EXPECT FROM YOU**

**Professionalism:** Adopting high standards of professional behavior will help you to master the knowledge and skills that are central to this course, and internalizing professional standards is a critically important one of those skills. You learned about the Complete Professional during Orientation [http://www.law.uc.edu/career/complete-professional](http://www.law.uc.edu/career/complete-professional). Here is how to be a Complete Professional in this class.

- Be ENGAGED in the material and the class activities, showing enthusiasm and an eagerness to learn.
- PREPARE for every class, arriving on time and ready to work with all assignments completed.
- Be RESPECTFUL of your classmates, faculty, and staff, whether in person or in email, inside class and out. Don’t interfere with others’ ability to learn, for example by talking excessively, walking into class late, or using the internet for personal matters during class. When possible, notify me in advance if you have to miss class.
- Be RESPONSIVE by answering emails quickly and honoring your commitments to me and your classmates. You must check your e-mail regularly, because I will frequently announce assignments and schedule changes through e-mail. You are responsible for all information communicated by email just as if it had been communicated in class.
- Be RESILIENT by taking unexpected events in stride, by seeking help when necessary and by responding constructively to disappointments or criticisms. I will give you frequent feedback on your written work; strive to listen with an open mind, to reflect on the feedback, and to use it to grow as a writer and a law student.
- MODEL INTEGRITY by putting forth your best effort in all assignments, by complying fully with class and College policies, by honoring your commitments, by dealing with others with honesty and compassion, and by taking responsibility for your decisions.

**Late Assignments:** I generally do not accept late assignments. I may accept a late assignment, provided that you notify me as soon as possible of the emergency that prevents your timely submission, and provided that you have made a good faith effort to complete the assignment on time. If I choose to accept a late assignment, I will adjust your grade on the assignment as I see fit.

**Attendance:** Class attendance is mandatory. If you must miss class, please email me in advance and ask a classmate for notes. If you are late or miss more than 1 class without justification, or I will make a downward adjustment to your grade as part of the “professionalism” component. I will circulate an attendance roster during each class. If you arrive on time, please sign in with your initials. You may not sign in for anyone except yourself. If you are late to class—i.e. after I close the door—then in addition to your initials,
you should record the time of your arrival. If you miss the roster when it comes around, you may sign the roster at the end of class—just make a note of the time of your arrival on the roster. Please keep your own records of any classes you miss or to which you arrive late. Of course, if there is an emergency that prevents you from attending class, please let me know as soon as possible so we can discuss ways for you to make up the missed material. I also expect students to stay in class and avoid leaving for bathroom or phone breaks except in case of an emergency.

**Participation:** I expect all students to participate fully in each class, whether in class-wide discussions, in small breakout sessions, or in any other classroom activity. Active participation in class will be reflected in the professionalism portion of the grade.

**Laptops and Phones:**
I encourage you to take notes in class using pen and paper, not your laptop. I don't forbid laptops in the classroom if you find it helpful for taking notes, but for many students, computer access in class is a distraction to themselves and others. A student who is answering email, reading news, or surfing the web during class is not fully engaged in the class, is avoiding responsibility for listening and contributing to the class, and is distracting to other students. If I find that laptop use is becoming a barrier to learning, I may ask you to put them away. For the same reasons, I will ask you to keep your phone on silent and out of sight during class. By establishing a largely computer-free classroom environment, I hope to assist you in setting and maintaining high standards of professional behavior in class.

**Accommodations and Learning Differences:** If you have a disability that requires reasonable accommodation in class or for assignments, please see me or Associate Dean Oliver so that we can work out a plan. Even if you don't have an identified learning issue, please feel free to visit me to discuss strategies that might help you to learn better.

**GRADING**
Grading is designed to assess your ability to independently research legal questions, to apply law to facts to accurately predict an outcome, and to communicate your analysis correctly, clearly, and concisely. To evaluate your progress in reaching these goals, and to provide you with regular feedback on your learning, you will complete several assignments throughout the semester. Your final grade for the semester will be based on the number of points you earn, out of 100 possible, as explained below.

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>POINTS POSSIBLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Core Grammar Post Test (due 10/3)</td>
<td>5</td>
</tr>
<tr>
<td>September Memo (due 9/22)</td>
<td>5</td>
</tr>
<tr>
<td>October Memo (due 10/10)</td>
<td>10</td>
</tr>
<tr>
<td>November Memo (due 11/22)</td>
<td>40</td>
</tr>
</tbody>
</table>
Research assignments | 15  
---|---  
Other assignments | 15  
Professionalism | 10  
**TOTAL** | **100**

**Description of Assignments**

- **Memos (September, October, November):** Memos to another lawyer explaining the outcome of your research and analysis of hypothetical legal problems. These memos are the primary focus of our work this semester. I will grade the November memo anonymously, but all other assignments will not be anonymous.

- **Research assignments:** Exercises focusing on specific legal research skills assigned periodically during the semester.

- **Other assignments:** Many short assignments throughout the semester, e.g. a letter to a client, a draft of part of a memo, or a quiz.

- **Core Grammar for Lawyers:** Based on your score on the Core Grammar post-test.

- **Professionalism:** For purposes of grading, I will be focusing primarily on whether you attend class regularly, participate in class discussions, and complete all assigned homework. I occasionally collect assignments even if I don’t intend to grade them. In some cases I’ll use samples of your work (with your name redacted), as examples to discuss in class. In other cases, I collect work simply to assess whether the class seems to understand the material. If you don’t complete these ungraded assignments, it will affect your “professionalism” grade.

- **Extra Credit:** From time to time I will announce activities that can earn you a small amount of extra credit. For example, the law school Moot Court team will host an intramural competition for second-year students on the evenings of Monday, October 26th, and Wednesday, October 28th, and they will invite first-year students to assist. You will receive more information about this as the semester progresses.

**COLLEGE WRITING SPECIALIST POLICY**

The College of Law has engaged a **writing specialist**, Prof. Chris Campagna, to assist students with writing questions. **You may consult with Prof. Campagna on any assignments in this class, at any time, even before I have graded them.** You do not need to ask me for permission in advance. Prof. Campagna can help you with your writing, but he will not rewrite, proofread, or edit your written work; rather he will guide you in doing your own editing and revising. For this reason, he works in person, not by email, using face-to-face meetings to assess needs, teach, and allow you to practice. If Prof. Campagna gives you advice different from the direction that I have given you or that you read in your textbook, my direction and the textbook will take precedence.
Please be aware that your other professors may have a different policy, and they may forbid you from consulting with Prof. Campagna on an assignment before it is graded. Be sure to know your other professors’ policy on this.

Prof. Campagna will also consult on any writing that is not being submitted for a grade. For example, he can review your past written work to identify areas for improvement, provide exercises to address particular concerns, and review cover letters for submission to potential employers.
POLICIES ON PLAGIARISM, UNAUTHORIZED ASSISTANCE AND COLLABORATION

LEGAL ANALYSIS, RESEARCH, AND WRITING  Fall 2015
Professor Bradley  Sections 1 and 4

A violation of any of these policies is a violation of the University of Cincinnati College of Law Honor Code. You can find the Honor Code on the College website.

PLAGIARISM POLICY
Plagiarism is taking someone else’s words or ideas and presenting them as your own without attribution to the original source. Examples of plagiarism include copying another student's work and quoting from a legal authority without attribution. In your written work, you must provide citations to sources relied upon. When copying phrases, sentences, or sections of another's work, you must use quotation marks and acknowledge the source of the quoted passages. Even if you do not quote directly from a particular source, you must provide a citation if the source is the basis for an idea expressed or the authority for a proposition stated.

UNAUTHORIZED ASSISTANCE POLICY
Unless I give you express permission otherwise, YOU ARE NOT PERMITTED to do the following:
- review others’ written work or show your written work to others before it is submitted for grading;
- receive assistance from anyone, including upper-class students, former students, friends, relatives, or coworkers; or
- disseminate any course materials, such as lectures, assignments, handouts, or exercises, through websites, databases, or in any other way.

Some exceptions to this Unauthorized Assistance Policy are contained in the Collaboration Policy and College Writing Specialist Policy below.

COLLABORATION POLICY
All written work must be your own or, in the case of assigned group projects, that of your assigned group. You may discuss class work with other students, subject to the following limitations:

- You ARE PERMITTED to discuss assignments with other students. For example, you may discuss class materials and other published materials, the facts of the hypotheticals, issues for research, and research strategy.

- You ARE NOT PERMITTED to discuss your writing plans or writing decisions. For example, you may not discuss whether or how you intend to use any specific authority, how you are organizing your memo, what facts or issues you intend to address, or how you intend to address them.