

## **Introduction to Legal Reasoning: Reading and Writing**

Political Science 104 J

Summer Session I 2018

Class time: Tuesday 5-7:50 pm

Classroom: Humanities and Social Science Building (HSS) 2152

Professor Matthew Bergman

Department of Political Science

Office: Social Sciences Building 345

E-mail: mebergma@ucsd.edu

Office Hours: Tuesday 10:00-11:50 am and by appointment (I am on campus most days)

TA Cassidy Reller

Office: Social Sciences Building 324

E-mail: creller@ucsd.edu

Office Hours: Thursday 1-3pm

### **Course Description and Goals**

The ability to write and argue is one of the noted benefits of a legal education. Students will learn the basics of legal research and reasoning by learning to read and brief case law and write objective memorandums.

This course has the prerequisites of POLI104A/B. The learnings of WHAT courts rule in these cases and HOW cases travel through the court system are necessary foundations to understanding WHY the courts rule the way they do. Little time in this course will be devoted to the structure of the legal system, but you can certainly use landmark cases from those classes to help motivate your learning in this course.

This course serves as preparation for POLI104K: Formulating Appellate Arguments. These courses are usually taught in Law School, and this course will be taught at a similar level. The intent of these courses is to provide a sample law school experience to undergraduates at UCSD. As such, there will be frequent guests sharing their experiences with the class throughout the quarter.

The main goal of these courses is to help you realize that law is a *discussion* with no *right answers* and to enable you to be a part of it. The small class size was selected to enable you to have such discussions with each other, your professor, and guests from the legal community that will be coming to join us. On the last day of class, you will be presenting contemporary legal discussion around a topic of your choosing.

Days 1-4: How Lawyers **Read**  
Days 6-7: How Lawyers **Analyze**  
Days 8-9: How Lawyers **Write**

At the end of the course, students will be able to:

- o read and analyze statutory law
- o read and analyze case law
- o conduct basic electronic legal research (WestLaw, LexisNexis, HeinOnline)
- o apply legal rules to a set of facts
- o identify and formulate issues
- o analogize, distinguish and synthesize cases
- o apply case and statutory law in an analytical framework utilizing legal reasoning principles of to write an objective legal memorandum
- o apply case and statutory law in an analytical framework utilizing legal reasoning principles of to advise a hypothetical client

### **Required Textbook**

TEXT: Deborah A. Schmedemann & Christina L. Kunz, *Synthesis: Legal Reading, Reasoning, and Writing* (4th ed. 2014). ISBN: 978-1-4548-0865-7. This will be our main text.

You are highly encouraged to annotate the text noting key distinctions between strong and weak examples. Be sure to highlight where key terms are addressed and use these and the end of chapter reviews as checklists to self-assess your understandings.

Note: Some of the chapters reference an appendix to the chapter, which immediately follows the chapter

Note\*: There are also appendices to the book itself, these are labeled with roman numerals: Appendix I, Appendix II, etc. They begin on page 299.

**Exercises:** They begin on page 359 (4<sup>th</sup> edition). I will upload a version to TritonEd. These will be assigned as homework for practice and as excellent preparation for examination. We will spend some time in the beginning of class going over the relevant exercises from the previous Day before addressing the day's topic. Do not overly concern yourself with formality or formatting on exercises; the goal is to give certain issues some thought and to have an opportunity to receive feedback before examination. You can submit documents or images of hand written answers.

**TritonEd:** Course materials besides the textbook will be provided on TritonED. You will also submit all assignments to TritonEd besides the midterm, final, and draft memos for peer review

**Google Drive:**

## **Course Format and (High) Expectations**

- Each class session will involve going over homework, lecture, and practice of concepts; some will include a guest
- Students are expected to complete assigned exercises before the next course
- Considerable time outside of class to readings, assignments, and research, typical of the law school experience.
- Students should be prepared having read the moderate course assigned reading before class; this enables active participation in course discussion and activities
- The second portion of the course will require regular work with a group, interested in similar legal topics, who will ultimately prepare a final presentation together and write final legal writings
- From Professor you can expect: (1) checklists/rubrics/samples for each assignment; (2) <12 hour reply to e-mails during the Day; (3) to gear examples towards your interest
  - So let me know what you are interested in, or any other reactions to the course and I can gear it appropriately.

It will be required for your group to meet with the professor or TA at least once during the last week to ensure adequate progress on the final.

Your work will culminate in a final presentation documenting the current reasoning behind the interpretations of a statute/rule recently discussed by the US Judicial System.

*Laptops are allowed.* However, you are expected to conduct yourselves with professionalism, to pay attention, and to only access materials relevant and necessary to the course. I reserve the right to change this policy at any time.

## **Teamwork/Cooperative Learning**

The second half of the course requires you to work with your peers in a group. The expectations are an equitable distribution of work and effort. I HEAVILY suggest you meet outside class times. You should also share a dropbox, google drive, or utilize the TritonEd space that will be made available to you. This aspect of the course is important as it will prepare you to work well with others in your professional or post-graduate experiences as “small group” skills are becoming increasingly important in today’s workplace. Your “firm” will be working on a legal topic of your interest to create a legal commentary and office memo. The individual final and group assessment will still provide opportunities for individual accountability.

Beyond your group, this is a unique seminar face-to-face learning environment. Unlike law school, where students often compete for the highest grade, this course is structured so that everyone can succeed, and in fact, are more likely to succeed when they are open with discussion and constructive criticism. Our goal should be to exceed expectations for a group of undergraduates engaging with complex legal material, and demonstrate to our observers on the day of final presentations.

## Grading

- 10 pts Participation & Classwork/Homework (medical & pre-arranged absences acceptable):  
Textbook Exercise Completion & Upload before EACH class (unless otherwise noted)
- 25 pts In Class Midterm Exam: textbook vocabulary, tables, and exercises (Day 5, Oct 30th)
- 5 pts Draft Group Final Office Memo, Commentary, Prof Meeting (Mon Dec 3 – 1159pm)
- 10 pts Group Commentary Presentation (Day 10, Tues Dec 4 in class)
- 5 pts Peer Review of 2 other group's Office Memo and Commentary: (Fri Dec 7–1159pm)
- 15 pts Final (Group) Office Memo + Commentary (can bring to final, submit online Fri Dec 14)
- 25 pts Final (Solo) Exam: short-form office memo, client memo, IRAC (Fri Dec 14, 7pm-10pm)
- 5 pts Final Group Evaluation

Final Grades will be assigned by the following formula; You are responsible for ensuring your grades are accurately reported. I reserve the right to up-grade to account for either exceptionally high or low performance on an assignment and down-grade for late assignments.

There is no curve unless a law school curve (certain number of As, Bs, Cs) is decided by consensus, this may lower some students' scores, so consent would be required

Grades Scored Between	Will Equal
97 % and Less Than 100 %	A+
93 % and Less Than 97%	A
90 % and Less Than 93%	A-
87 % and Less Than 90%	B+
83 % and Less Than 87%	B
80 % and Less Than 83%	B-
77 % and Less Than 80%	C+
73 % and Less Than 77%	C
70 % and Less Than 73%	C-
67 % and Less Than 70%	D+
63 % and Less Than 67%	D
60 % and Less Than 63%	D-
0 % and Less Than 60%	F

### University Policy on Integrity of Research

The *University Policy on Integrity of Research* aims to encourage and maintain the highest ethical standards in research. The policy reaffirms the University's commitment to integrity in research:

Integrity of scholarship is essential for an academic community. The University expects that both faculty and students will honor this principle and in so doing protect the validity of University intellectual work. For students, this means that all academic work will be done by the individual to whom it is assigned, without unauthorized aid of any kind. Instructors, for their part, will exercise care in planning and supervising academic work, so that honest effort will be upheld (<http://www-senate.ucsd.edu/manual/appendices/app2.htm>).

Please uphold these standards. Be especially careful not to plagiarize. Plagiarism is defined in the Merriam-Webster dictionary as follows: "to steal and pass off (the ideas or words of another) as one's own: use (another's production) without crediting the source; intransitive senses: to commit literary theft: present as new and original an idea or product derived from an existing source." Please note that it is also against University policy to submit the same paper for credit in more than one course. This is self-

plagiarism. You should also familiarize yourself with the materials available on the website for UCSD's Academic Integrity Office: <http://students.ucsd.edu/academics/academic-integrity/index.html>.

#### How Not to Plagiarize

Following are two sites that discuss the wrongdoing of plagiarism and tell you how to avoid it:

[http://ssh1.ucsd.edu/plagiarism\\_old/Tips-PP-Brochure-09Apr10.pdf](http://ssh1.ucsd.edu/plagiarism_old/Tips-PP-Brochure-09Apr10.pdf)

<http://www.indiana.edu/~istd/>

#### Useful Resources

Student Counseling, Health, and Well-Being Central Office & Urgent Care: 858-534-3755

Writing Center: 127 Mandeville Telephone: 858-534-4911

course guide: <http://ucsd.libguides.com/poli104j>

Annelise Sklar; Social Science Collection Coordinator at Geisel: [ASklar@ucsd.edu](mailto:ASklar@ucsd.edu)

**She is willing to host daytime/afternoon sessions on all the resources, so if a group of you wanted further tutorials on the legal search engines, do not hesitate to send her an e-mail.**

ScotusBLOG: Court filings and analysis of cases before the Supreme Court

<http://www.scotusblog.com/>

Oyez: Summarizes facts of case, questions before the supreme court in cases, and audio of oral arguments: <https://www.oyez.org/>

#### **E-Mail/Course TritonEd Discussion Forum:**

- Before e-mailing Professor about any assignment, course expectation, or general question, please check the TritonEd Discussion Forum.
- Questions will be answered within 24 hours (excluding weekends)
- Participation in writing or responding to forum posts will be viewed favorably when deciding grades (if you wish, you can post questions anonymously to TritonED)
- If a question is inappropriate for the forum, e-mail the professor directly indicating that you are student from POLI104J. Be sure to use your **@ucsd.edu** e-mail address for office course correspondence.

If the question might be had by other students, I will post the question (identifying information omitted) to the forum to aid classmates

## **Course Schedule**

### **Day 1: Course Introduction: Rule-Based Legal System – October 2, 2018**

Required Reading: Synthesis: Chapter 1 & 2

### **Day 2: Reading Statutes – October 9, 2018**

Required Reading: Synthesis: Chapter 4 (\*note, going backwards in the textbook)

Assignment Due: Chapter 2 Exercises 1-3

### **Day 3: Reading Cases – October 16, 2018**

Required Reading: Synthesis: Chapter 3 (\*note, going backwards in the textbook)

Assignment Due: Chapter 4

**Guest:** Darin Wessel, Esq; Partner Manning & Kass Ellrod, Ramirez, Trester LLP

**Day 4: Reading Commentary** – October 23, 2018

Required Reading: Synthesis: Chapter 5

Assignment Due: Chapter 3

Guest: Kate Bolus, Esq: BarMD; Thomas Jefferson School of Law

**Day 5: In-Class Midterm** – October 30, 2018

Steps toward final commentary/memo: Form groups based off a similar topic of interest

**Day 6: Applying Rules to Facts: Legal Reasoning** – November 6, 2018

Required Reading: Synthesis: Chapter 6

Steps toward final commentary/memo: Decide which statue or legal rule your group will focus on start to gather list of important rules, statutes, and cases

**Nov 9:Last Day To Drop Without “W”**

**Day 7: Rule-Driven Legal Writing: IRAC** – November 13, 2018

Required Reading: Synthesis: Chapter 7

Assignment Due: Chapter 6

Steps towards final c/m: Research and IRAC at least 3 cases *each* relating to your statue/rule

Guest: Shawn Huston, Esq; Managing Partner at Huston|McCaffrey, LLP - Attorneys at Law

**Day 8: Analytical Office Memo** – November 20, 2018

Required Reading: Synthesis: Chapter 8

Assignment Due: Chapter 7

Steps towards final c/m: Create a set of facts for office memo; synthesize cases for commentary

**Day 9: Client Advice Memos** – November 27, 2018

Required Reading: Synthesis: Chapter 9

Assignment Due: Chapter 8

Steps towards final c/m: Submit draft of office memo and commentary (Dec 3<sup>rd</sup>)

Guest: Craig Nicolas, Esq; Partner Nicholas & Tomasevic, LLP

**Day 10: Final Presentations** – December 4, 2018

Required Reading: None

Assignment Due: Upload draft office memo and commentary BY 1159PM, December 3rd

Assignment Due: Upload Presentation by class

Assignment Due: Two Peer Reviews : 1159pm, December 7th

**Final Exam** – December 14, 2018 ; 7-10pm

Assignment Due: Upload Final Office Memo + Commentary

Assignment Due: Group Evaluation