

Course Guidelines & Syllabus

LAWYERING PROCESS I

SEC. 6

FALL 2019

PROFESSOR CHERYL CASH

Class Times

Tuesdays and Thursdays from
9:00 to 10:15 PM in Room 208

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THE PROFESSOR & OFFICE HOURS

NAME: Cheryl G. Cash
EMAIL: cashesq84@gmail.com
LOCATION: Adjunct Professors Office
OFFICE HOURS: Tuesdays, 3:30 to 4:00 PM,
Thursdays, 2:30 to 4:00 PM,
And by appointment

NOTE FROM THE PROFESSOR:

Welcome to the course! I look forward to working with you this semester. Before beginning Lawyering Process I, you should know the course's overall goals and how we will achieve those goals. Knowing the course's objectives and methodology will help you understand the purpose behind the assignments you will receive during this semester. This Course's objectives and methodology are explained in great detail on pages 5-7.

COURSE BOOKS & MATERIAL

The *required* textbooks for this course are:

1. Coughlin, Malmud, & Patrick, A Lawyer Writes, 3rd Edition
2. Graham & Felsenburg, The Pre-Writing Handbook for Law Students: A Step-by-Step Guide, 2nd Edition
3. The Bluebook, A Uniform System of Citation, 20th Edition

The *highly recommended* textbooks for this course are:

Hacker, A Writer's Reference, 7th Edition
Garner, The Redbook: A Manual on Legal Style
Black's Law Dictionary

These books are available at Texas Southern University's Bookstore in the Student Life Center. If you have not already done so, you should purchase them right away. We will be using the required textbooks very shortly.

Also, throughout the semester, I will hand out supplementary photocopied materials. I strongly suggest that you get a binder or portfolio to keep all of your class materials organized.

COURSE DESCRIPTION & OBJECTIVE

DESCRIPTION:

The primary goal of this course is to teach you a set of **basic lawyering skills** that are critical to the lawyering process. These skills will enable you to handle any basic legal issue that you will encounter as a law student, summer intern, or practicing lawyer. Using Bloom's Taxonomy, a classification system used to define and distinguish different levels of human cognition, the course will teach you how to **analyze** and **evaluate** legal problems and how to communicate your **analysis** and **evaluation** in writing effectively.

In your law practice, each case you take on will be somewhat different from the ones you have taken before. Frequently, a new case may not be related to any of your substantive law school coursework or your prior practice experience. However, if you have developed a set of basic lawyering skills and know the process of lawyering, you should still be able to effectively advocate for your client, no matter what the legal issues are. Again, the goal of this course is to teach you those foundational skills.

In general, this course will focus on the basics of the following skills:

1. **Legal analysis and writing** – including reading cases, narrowing and expanding holdings, using and distinguishing precedent, synthesizing cases, issue spotting, applying law to facts, interpreting statutes, developing and evaluating legal arguments, and objective/predictive legal writing. Please note that we will cover persuasive legal writing in Lawyering Process II during the spring semester.
2. **General writing skills** – a review of writing skills, style, and grammar rules to ensure clarity, succinctness, and well-written English in all work product.

OBJECTIVE:

By the end of this course, you should be on your way to being practice-ready, meaning you should be able to perform any legal task typically assigned to a first-year law student intern, including being able to find the applicable law, thoroughly apply that law to any set of facts, and convey a well-reasoned analysis in a typed document that is helpful to a client.

STUDENT LEARNING OUTCOMES

In general, this course will focus on the following skills:

1. **Critical Reading and Thinking**—reading and understanding judicial opinions and the impact the opinions may have on future cases, narrowing and expanding holdings in opinions, analogizing and distinguishing precedent, critiquing and selecting authority, synthesizing cases, and interpreting statutes.
2. **Legal analysis and writing**—issue spotting, applying the law to the facts logically, developing and evaluating legal arguments, organizing the analysis in a fashion expected by lawyers, and objectively predicting the outcome of a case in writing.
3. **General writing skills**—learning how to write like a good lawyer by using proper grammar, syntax, and punctuation.
4. **Citation skills**—properly citing to legal authority in accordance with the Bluebook.
5. **Professionalism**—acting like a model lawyer by being on time, prepared for class, courteous to your professor and classmates, and timely with your submission of all assignments.

COURSE METHODOLOGY

Course Methodology: Learning by Doing

The methodology of this course is based on the principle that the best way to learn lawyering skills is by practicing them. To the extent possible, participating in the course will be similar to working in a law practice. You will be learning by doing.

In your other first-year courses, you study law primarily by examining appellate court opinions. This approach asks you to reflect upon the law as though you were an appellate judge, who sees the end product of months or years of winnowing evidence and analyzing the law. In this course, however, you will approach the law from the perspective of a practicing lawyer rather than as a judge. Thus, you will learn both how to develop a factual record and legal arguments considering your client, as well as how to present your arguments in writing effectively.

Finally, please note that you are expected to have completed the reading and writing assignments in the Syllabus no later than the date that the assignments appear on the Syllabus. For instance, if under the date, “Thursday, August 22, 2019,” it says read pages 1-20 in a Lawyer Writes, you should have done this reading before you enter the class on that day. Please note that reading and writing assignments are subject to change, and sufficient notice will be given in advance for any alterations to assignments.

GRADING

General Grading Information

1. **Course Format:** Lawyering Process I is a three-credit hour course. The course consists of three basic components: (1) Legal Analysis and Writing, (2) Legal Research, and (3) General Writing Skills (including grammar, style, and writing exercises, etc.).

2. **Final Grade:** Your final grade will be based on the following:

• Legal Analysis and Writing (Prof. Kelsaw)	70%
• Legal Research Class (Prof. Long)	20%
• Advanced Grammar Review Class (Prof. Kelly)	10%

—————
TOTAL: 100%

In particular, your grade for Legal Analysis and Writing will be based on the cumulative total of the scores you have received for the following:

• Writing Assignment #1	5%
• Writing Assignment #2	7%
• Writing Assignment #3	30%
• Other Assignments	25%
• Participation, Professionalism, and Attentiveness	3%

—————
TOTAL: 70%

“Other Assignments” include but are not limited to legal analysis exercises, citation assignments, case briefs, tests, case charts, and quizzes.

Per the 2018-2019 Student Rules & Regulations, each LP Faculty member is expected to follow the following grading pattern in Lawyering Process I and Lawyering Process II:

“A” 10-13%
“B” 25-34%
“C” 35-45%
“D/F” 0-08%

ACCOMMODATIONS

If you require special accommodations, please fill out the necessary forms with the Dean's office. Your application and documentation will remain confidential. Your prompt attention will allow the law school to accommodate you, as soon as it has been made aware of your situation.

Please see:

<http://www.tsulaw.edu/academics/18SuAccommodationsInformationWeb.pdf>

PARTICIPATION, PROFESSIONALISM, & ATTENDANCE (“PPA”)

Class participation will be considered in determining your final course grade. “Participation, Professionalism, and Attentiveness” points (“PPA points”) will be deducted for the following: not being prepared for class; not actively participating in class discussions or exercises; being disrespectful or discourteous to your professor or your classmates (for example, talking when someone else is speaking); missing a scheduled or mandatory conference with me without providing adequate notice beforehand (at least 24 hours before the scheduled meeting except in emergency situations); failing to timely sign up for a mandatory conference as instructed; writing the wrong exam number or your name on an anonymous assignment; and displaying immature or unprofessional conduct (see point deductions on following page). Examples of “immature or unprofessional conduct” include but are not limited to: sighing out loud in class or making other inappropriate outbursts; walking in and out of class after instruction has begun (unless you have a medical problem and have received an accommodation from the Dean of Students); permitting your cell phone or other electronic device to ring during class; surfing the internet; viewing material on your laptop or smart electronic device unrelated to class; using profanity or offensive language during class; and engaging in a verbal/physical altercation. As a general rule, in gauging what constitutes unprofessional behavior, ask yourself whether your conduct would be acceptable in a court of law. If it would not be tolerated, please do not do it in our classroom.

Additionally, state law permits you to carry a concealed firearm on campus into areas that have not been designated as gun-free zones, *provided that you have a Texas license to carry a concealed gun*. My office is a *gun-free zone*; thus, it is unlawful to carry a firearm inside my office irrespective of whether you have a license to carry. Bringing a firearm into my office or any other designated gun-free zone on campus could lead to criminal charges and/or expulsion from this university. For a complete list of the gun-free areas on campus and the rules governing campus carry at this university, please visit Texas Southern University’s website at <http://www.tsu.edu/>.

PARTICIPATION, PROFESSIONALISM, & ATTENDANCE (“PPA”) ADDENDUM

Part of your grade for Fall 2019 will consist of 30 PPA points. Every student will start out with 0 points and will have an opportunity to earn 30 points by performing the following:

1. Weekly Gratitude Journal Entry (15 points—1 point for each week (15) of the fall semester)
2. Court Observation Form (15 points)

In addition to the opportunity to gain the above points, there will be PPA points deducted for the following conduct, including:

1. Not being prepared for class—lose 5 points for each occurrence.
2. Refuse to participate in class discussions or exercises—lose 5 points for each occurrence.
3. Failure to bring all relevant materials with you to class (such as your textbooks, handouts, etc.) or failure to have these materials open and ready for use in class—lose 5 points for each occurrence.
4. Failure to provide 24-hours’ notice of cancellation for a mandatory meeting, except in emergency situations—lose 5 points.
5. Showing up to mandatory meeting late—lose 5 points.
6. Use wrong exam number or name on anonymous assignments, TWEN, etc.—lose 5 points for each occurrence.
7. Computer or cell phone in class—lose 10 points for each occurrence.
8. Unprofessional or disruptive conduct in class or office meeting—lose 15 points for each occurrence.
9. Plagiarism or improperly working with another person on a major writing assignment will result in scoring a “0” on the assignment and a “0” for total PPA points earned for the semester.

POLICIES & PROCEDURES

Exam Numbers

You will be required to use an exam number when submitting most assignments for this class. You must adhere to the instructions given with each assignment. In general, you will use three different exam numbers over the course of the semester. You can receive exam numbers from the Records Office, Room 229. I will instruct you when each exam number is ready for distribution. Any changes to the exam number policy or schedule will be announced in class and/or via e-mail or posted on the course page on Westlaw's TWEN.

Major Writing Assignments

1. Overview: You will complete three major writing assignments for this course. You will complete one memorandum for Writing Assignment #1, one memorandum for Writing Assignment #2, and one memorandum for Writing Assignment #3. You must use an anonymous EXAM NUMBER when submitting each of these assignments. DO NOT put your name on any of these graded writing assignments, as preservation of your anonymity during grading is mandatory. **If you put your name on any of your writing assignments, your work will not be graded and you will receive a zero for the assignment.** If you use the wrong exam number, you will lose PPA points. Also, remember that you must comply with all format requirements for each of these assignments.

2. Writing Assignment #1 and #2: For Writing Assignment #1 and Writing Assignment #2, you will be generally graded both on form and substance. You must complete these assignments to the very best of your ability. For example, if your memorandum does not include all of the relevant sections for a memorandum or address all of the issues for that assignment, you will lose points. You must submit a complete work product. If you do not use proper grammar or punctuation, you will lose points. You must carefully proofread your work. Both your analysis and writing will be considered in grading your work. Your work must be well-written, well-organized, accurate, and clear. You also must adhere to the format guidelines and the expectations for predictive memoranda (discussed in class and in the assigned readings).

All of the assignments are essential to the course and to your development as a lawyer. **Accordingly, you must satisfactorily complete each assignment to receive any credit towards your grade.** Ideally, after you prepare a draft document, you should spend the remaining time editing your work to complete the final document. Your final work product should not be identical to your draft version, but rather should be a product of editing, proofreading, and revising your draft.

3. Writing Assignment #3: As with the other major assignments, Writing Assignment #3 will be graded both on form and substance. Consider this assignment as your “final performance exam or assessment” in Lawyering Process I; thus, you will not receive any individualized feedback on this assignment prior to its submission. It is imperative that you work diligently on Writing Assignment #1 and #2 so that you are ready for the final assignment in this course.

Other Assignments in General

When directed to do so, you must use an EXAM NUMBER when submitting your other assignments. As mentioned, these assignments include, but are not limited to, the case briefs, tests, legal analysis drills, case charts, citation exercises, and certain other assignments submitted in class or online using Westlaw’s TWEN. If you are instructed to use an exam number, DO NOT put your name on the assignment, as preservation of your anonymity during grading is mandatory. **If you put your name on your assignment, your work may not be graded, and you may receive a zero for the assignment.** If you use the wrong exam number, you will lose PPA points. Furthermore, you must submit these assignments on time. Lastly, if you submit your assignment on TWEN more than once, I will review and grade only the most recent submission (the last submission).

Assessment

As mentioned earlier in this document, this course is designed to help you acquire and develop the skills necessary to engage in the practice of law effectively, efficiently, and ethically. In order to help you meet that goal, your assignments have been designed in such a way as to give you the opportunity to test out a skill and then reflect upon and analyze your work in order to understand your own strengths and weaknesses and refine your skills as the semester progresses. In this way, the course mirrors what you will experience in practice, whether as an intern or as a recent graduate.

Just as in practice, you will encounter three basic ways to assess and thereby be able to improve upon your work. First, you will receive assessment from those assigning your work (in our case, this is faculty assessment—me or my tutor/writing advisor). Second, you will engage in peer assessment (your classmates). Finally, and perhaps most importantly, you will engage in self-assessment. Each of these methods of assessing your work allows you the opportunity to reflect upon your skill set and make adjustments where necessary. In order to be prepared to practice law, it is critical that you take advantage of these opportunities. In order to help you recognize these opportunities as they arise in this course, each is discussed briefly below.

Please keep in mind that as first-year law students, it becomes easy to fall into the trap of viewing these forms of assessment as “explanations” for your grade, thereby missing the actual purpose of the assessment, which is to provide you with the information necessary to help you refine your own skills.

In order to avoid falling into this trap, consider that when you enter practice, the assessment provided to you by senior attorneys and your junior colleagues, in addition to that which you do on your own, is not for a “grade.” Rather, its sole purpose is to help you develop as an attorney and create high-quality, practice-appropriate work product. Likewise, the purpose of you receiving various assessment opportunities in this course is to help you develop your skills. If you recognize this now, you will be miles ahead of your peers when entering practice. Accordingly, watch for opportunities to improve upon your work through the following methods:

1. **Faculty Assessment:** You will have the opportunity to receive feedback from me in several forms, each of which is designed to help you assess your progress and improve your work:
 - i. **Individualized Assessment and Written Feedback:** On major writing assignments (Writing Assignment #1 and #2), you will receive my written feedback. Often these come in the form of comments and suggestions for your writing, rendered through the “Comment” and “Track Changes” features in Microsoft Word. These comments are not designed to give you “the answers;” rather, they are designed to help you ask yourself the necessary questions to discover how to improve your work on your own. Additionally, as discussed in subpart (iii), you will have the opportunity to discuss the individualized feedback on Writing Assignments #1 and #2 alone with me in a conference.

From time to time, you may also receive individualized written feedback from me in the form of (a) e-mailed responses to appropriately e-mailed queries (more on what constitutes an appropriate e-mail query below), and (b) electronic comments submitted through TWEN in response to your individual anonymous assignment submissions. Because the feedback submitted per item (b) above is sent through TWEN to your anonymous exam number, please make sure to respond to such comments only through TWEN, so as not to reveal your identity to me inadvertently.

Finally, you will receive individualized written feedback on legal analysis exercises from me via my writing advisors. Writing advisors are prior students who did exceptionally well in my Lawyering Process class and who did well in their first year of law school generally. Should a writing advisor provide advice that you believe to be inconsistent with something that I have said in class, you should obviously defer to me. You are ultimately responsible for your own work; thus, if you are presented with seemingly conflicting advice, it is your responsibility to seek clarification from me.

- ii. **Group Assessment and Written/Verbal Feedback:** On some assignments, I will assess your work as a class and will provide written or verbal commentary identifying common or critical weaknesses in the assignments that I received. The purpose of such group feedback is twofold: first, it allows you the opportunity to review your own work with a critical eye so as to learn to identify and remedy any of the listed weaknesses; second, by understanding the weaknesses that other students’ work exhibited for a given assignment, you should become aware of mistakes to avoid that may not have arisen in your own work for that particular assignment, but which could arise in the future.

Additionally, when I receive appropriate questions via e-mail regarding your major Writing Assignments, in order to ensure that all students have equal access to the same level of

instruction, I may send an e-mail to everyone containing my feedback to a single student's inquiry. In all such circumstances, the name of the student shall be kept anonymous.

iii. **Individual Assessment and Verbal Feedback:** As mentioned in subpart (i) of this section above, you will have the opportunity to meet with me individually to discuss major Writing Assignment #1 and #2. In order to make the most of this meeting, it is critical that you prepare. Adequate preparation would be to review my comments on your work and write down any questions you may have about comments you did not understand.

In addition to our mandatory meeting on Writing Assignments #1 and #2, you may meet with me individually during my office hours to discuss any other assignment or concern. Although I cannot discuss the details of written submissions submitted anonymously via TWEN with you until they are no longer anonymous, we can discuss your general questions and concerns. With some planning, you can find ways to ask questions that will help you ascertain the answers to problems you may be having with anonymous assignments that you have not yet submitted. Discussing your problems by analogy to different problems or hypotheticals is not only a good way to maintain your anonymity and receive answers to questions regarding pending assignments, but is also good practice for the kind of reasoning lawyers use every day.

2. **Self Assessment:** Finally, you will have the opportunity to engage in self-assessment throughout the course of the semester. This too will happen through a variety of means. For example, I will provide you with a writing sample or checklist designed to help you edit and refine your work by comparing your work to the exemplars. Likewise, I will provide model answers or annotated responses to short writing exercises for which you did not receive individualized feedback. As with the other forms of self-assessment, it will be up to you to make the most of this type of assessment. Accordingly, you should never hesitate to supplement an exercise that is designed for your own self-assessment with the other forms of assessment and feedback, such as by asking questions in class or during office hours, or by discussing your thoughts and experiences with your peers.

3. **Peer Assessment:** You also will have the opportunity to receive feedback from your peers in a variety of ways throughout the semester. We will engage in peer review and critique exercises, collaborative writing assignments, group discussion, team preparation for in-class oral arguments, and work performed in simulated "law firms" designed to give you practice solving problems with your colleagues. Each of these collaborative opportunities gives you a chance to exchange ideas with your peers before having your work evaluated by me. This process is not only intended to help you improve your work, but it simulates the experience of working with junior colleagues before presenting your work to senior attorneys and of working on lawyering teams to solve problems prior to presenting solutions to internal or external clients. It also helps you build communication, negotiation, and other interpersonal skills that will be critical to your success in any lawyering environment.

Paper Format Requirements

The following format requirements for this course are based on the general rules for filing documents in most state and federal courts. With the exception of the case brief and certain other class exercises, these requirements apply to all of the major writing assignments that you will do for this course (namely, the memoranda for Writing Assignment #1, Writing Assignment #2, and Writing Assignment #3). I will strictly enforce format requirements to ensure that all students have an equal amount of space in which to convey their ideas and learn from their mistakes. These format requirements will also help preserve your anonymity on the papers.

If you have any questions regarding these guidelines or the guidelines on any individual assignments, please ask me. Unless otherwise specified, each piece of written work that you submit in this course must meet the following format requirements:

- All documents must be typed using Microsoft Word.
- All documents must be typed in Times New Roman font and submitted on plain white, 8-1/2 x 11 inch paper (using one side only).
- The font size must be no smaller than 12 point font and footnotes (if any) may be no smaller than 10 point font.
- Papers must have at least one-inch margins on both sides and at the top and bottom.
- No page may include more than 25 lines per page (including footnotes).
- Text must be double-spaced. Footnotes should be single-spaced.
- You must have at least one space between sentences, including citation sentences. Tabs, such as those used to begin a new paragraph, must be at least a ½ inch in length.
- Each assignment must be consecutively paginated at the bottom of each page (centered).
- Be sure to print a hard copy of your assignment and check to make sure that you have complied with these format requirements.
- All assignments must include your Exam # and LP Section # in this format: 1234-2.
- Lastly, all pages of each assignment must be stapled together (in the upper left-hand corner).

Consequences for Late or Over-Length of Miscellaneous Assignments

1. **Late Submission of Assignments:** Because failure to timely submit a legal document in real life can have severe detrimental and irreversible consequences, it is important to learn early in your legal education the importance of submitting assignments on time. Accordingly, you will receive no credit for late miscellaneous assignments.

Please note that you will be required to upload most, if not all, of your assignments on TWEN in an Assignment Drop Box. Whenever you have successfully submitted or uploaded a document in the Assignment Drop Box, you will receive an email confirmation from TWEN notifying you that your document has been successfully submitted. If you do not receive this confirmation, this means that your document has not been successfully uploaded and you need to try it again. Accordingly, it is highly recommended that you do not wait until the very last minute to submit an assignment online, as this could result in a late submission and a zero for the assignment. Rather, you should upload a document on TWEN at least the day before it is due. Finally, it is your responsibility to prove that you submitted an assignment on TWEN by the deadline; thus, for your own protection, it is highly recommended that you save your emails confirming that you timely submitted an assignment.

2. **Submission of Over-Length Writing Assignments:** I will indicate a maximum word limit for each writing assignment that I will strictly enforce. **If you go over this word limit, you will receive a 10% reduction in your grade.** In addition, I will not review any writing that exceeds the word limit. This means that you will not receive credit for any sections of the paper that are beyond this word limit. Furthermore, you will lose points on a writing assignment for any other violations of the formatting rules. Please review these rules carefully.

Attendance

Class attendance is mandatory. Roll will be taken at the beginning of each class. Per the Student Rules and Regulations, for this three-hour course, you will be permitted three (3) absences. Tardiness will not be permitted and will be considered an absence, as will dismissal from class for misconduct or lack of proper preparation. Please see the Student Rules and Regulations for information on grade reduction and further details on absences. The class attendance rule is strictly enforced.

Laptop Use

Laptop computers are not allowed in class. There may, however, be certain days that I instruct beforehand, that you may use your laptops in class. On these days, you are not allowed to access the Internet, unless specifically permitted. Cell phones, blackberries, and similar devices must be turned off. Violation of this policy will result in a deduction of PPA points.

Collaboration

You may discuss some of your assignments with your colleagues in your section of Lawyering Process I. You are all likely to learn from each other and will benefit more from the course if you approach it in a collegial manner. Indeed, this is consistent with the real-life-practice of law, as it is not uncommon to discuss and test some ideas with colleagues. However, your final written product on all of these assignments must be your own. Of course, if your work is sheer imitation, it will not only be obvious but plagiarism, which is strictly prohibited.

I will inform you when collaboration on an assignment is permitted. If I do not announce that you may discuss your assignment with your colleagues, you are to assume that collaboration with them (or anyone else for that matter) is disallowed. Exchanging ideas with others on an assignment where collaboration is prohibited will be considered cheating and have negative consequences.

Plagiarism

Plagiarism in *any* form is strictly prohibited and will not be tolerated. You may not plagiarize any other written work, including, but not limited to, another student's memorandum, a prior exemplar or sample memorandum, an internal legal memorandum, or any memorandum of points and authorities filed with any court. Should an instance of plagiarism exist, you will receive a "0" for the assignment and the matter will be forwarded to the Dean for appropriate action.

Questions Sent by Email

I welcome your questions by email, provided you adhere to the following requirements. If you send me a question by email, you must (1) identify the steps you have taken to solve the problem or answer your specific question or issue; and (2) include what you believe the solution or answer to be. In particular, you should identify the materials that you have read or sources that you have researched. Many times, the answer to a question (especially technical requirements for assignments) may be found in the Course Guidelines & Syllabus. Be sure to check this document first.

Letters of Recommendation

Letters of recommendation will be written upon request, provided that you: (1) earn a B or higher in my class and (2) have not displayed conduct unbecoming of an attorney. For some examples of unprofessional conduct unbecoming of an attorney, refer back to the section titled "Participation, Professionalism, and Attentiveness."

Modifications

The terms of this Syllabus may be altered, amended, or deleted and new provisions may be added as the professor deems necessary. If the Syllabus changes, you will be notified immediately.