

Independent Special Project

(a/k/a Independent Research, Independent Writing, or Independent Study)

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SYLLABUS

Introduction:

The purpose of this syllabus is to provide a structure and a set of expectations to foster law-student success in independent research and writing work. To research, write, and polish a paper – hopefully of publishable quality – within a single semester is a daunting task. This document reflects my thinking (accumulated through years of experience of supervising papers) about how to accomplish that in a way that will leave the student very satisfied with the fruits of her or his labors.

The Independent Special Project at UND Law:

The University of North Dakota School of Law allows students to undertake an independent special project for academic credit. Other schools call this or a similar course an independent research project, an independent writing project, independent study, or a third-year paper. To enroll for an independent special project, you need the approval of a faculty member who agrees to supervise the project. This document explains what I need in advance to approve such a project and agree to supervise it, and it explains what needs to be done during the semester to make the project successful.

When and When Not to Pursue an Independent Special Project:

As an instructor, supervising a well-done independent project is one of the best parts of my job. I keenly enjoy it. But an independent project is only right for some students under certain circumstances. So, here are some key things to keep in mind:

Pursing an independent special project for academic credit allows you to study in depth and build particular expertise in a subject that you find particularly interesting. Such a project should be considered to be advanced study, and the most suitable topic is one for which you already have background knowledge.

As the name indicates, an independent special project is independent, and this means that your work must be self-directed. You must keep this in mind in deciding whether to pursue an independent special project, and if you choose to pursue one, you must keep it in mind throughout your work. It will primarily be

your job to figure out what needs to be done, how to accomplish it, and how to schedule and focus your work to make sure it gets done within the semester.

I admonish all students thinking about an independent special project that convenience or other external factors are not good reasons to pursue an independent special project. For instance, the need to fill out a schedule with a certain amount of credits is not a good reason to take on an independent special project. Neither is the need to take on extra credits to graduate from the J.D. program early. Your primary motivation should come from a desire to do self-directed work at an advanced level so as to obtain special expertise or accomplishment with regard to particular subject matter in which you have a particularly strong interest.

Consonant with a desire to build special expertise in a subject, I strongly encourage you to view the end goal of your work not as the paper you turn in to me or the grade or credit you receive. Instead, it is my hope (bordering on an expectation) that your ultimate goal is the eventual publication of your project. More on that later in the syllabus.

Timing - When to Plan an Independent Special Project:

The planning for an independent special project must begin well before the semester in which you hope to enroll. That means, at the latest, the Spring semester for a Fall semester project, and the Fall semester for a Spring semester project.

Barring extraordinary circumstances, for me to consider supervising your independent special project, I require that you discuss the matter with me in person and in depth before the last day of regularly scheduled classes in the preceding semester of the regular academic year (e.g., in April for a project to be pursued beginning in August). I would anticipate extraordinary circumstances to be exceedingly rare, but they would likely include, for instance, the sudden unavailability of a professor with whom you had previously been planning an independent special project. To be clear, the need to have additional credits to graduate is not extraordinary circumstances.

Before you Enroll - The Research Proposal:

Before you enroll in the course, you must submit to me an acceptable research proposal. Your research proposal should explain the topic you have selected, why you have selected it, and what you hope to do with the paper (such as where you hope to publish it). An acceptable research proposal will require time and thought; thus the need for you to work on it, and for us to discuss it, before the semester during which you hope to enroll.

I am happy to review and approve your research proposal months in advance. But barring extraordinary circumstances, the last day I will accept submission of the research proposal for a given semester is the first day of regularly scheduled classes for that semester.

If the acceptance of your research proposal is important for your planning purposes in making sure you are taking enough credits for a given semester, then make sure you submit it far enough in advance that if I do not approve it, you will be able to make alternative arrangements for your schedule with which you will be

happy. Please understand that without an acceptable research proposal, I will not approve you for enrollment.

Please use the naming convention for your research proposal listed below under the heading "Progress and Deliverables."

Enrolling:

If I accept your research proposal, I will sign the forms to approve your enrollment. You will need to obtain the required forms from the administration, fill them out, give them to me to sign, and then turn them in.

Aiming for Publication:

Consonant with a desire to build special expertise in a subject, I strongly encourage you to aim for publication of your project. If you hope to become a lawyer with special expertise in a particular subject, research and writing an independent paper in that area will help you obtain an expert level of knowledge. But how will others know that you know what you know? Publishing is the key. Publication signals your expertise to other lawyers and to potential clients.

Don't be intimidated by the goal of publication. Legal scholarship and legal practice are blessed with many venues for publication, and a good paper will find a home. I will, of course, will be very glad to talk with you about submission and publication and to help you plan for it.

Just to be clear, publication will not be a course requirement – researching and writing will take the whole semester, so submitting for publication is something you will likely not be able to pursue until after the semester. But when doing the course work, I hope you will keep your eye on publication as the ultimate goal.

Projects Other Than Scholarly Papers:

The presumption is that your independent special project will be the researching and writing of a scholarly paper. But maybe you are contemplating making a movie, writing a novel, or doing something else. If you wish to pursue a project that produces some other end product, I am happy to discuss the possibility. But in order to approve such a project, I would need to agree in advance of enrollment on a set of standards and expectations for the project that would fill the place of what this syllabus says with regard to regular written projects. The onus would be on you to draft such standards and expectations. Because doing this would require substantial additional planning, your conversations with me about such a project should start even further in advance than I have indicated is appropriate for a paper project.

Minimum Standards for Receiving Credit:

Your paper must meet the general UND School of Law requirements for an upper-level writing requirement as they existed in Spring 2015, as set out below. This is true even if you have already fulfilled the upper-level writing requirement through another course. Any exception to this must be explained in your research proposal and approved by me in writing prior to your enrollment in this class.

The requirements¹ are that your paper must be a “rigorous writing experience” that evidences:

- (a) Good organization according to the recognized conventions for the type of document the student is writing, including, where appropriate, the clear identification of the legal problem to be solved, the determinative and necessary explanatory facts of the situation, the legal rules relied upon, and the application of those rules to the facts;
- (b) Proposal of an original hypothesis and/or evaluation of solutions to a legal problem, challenging or critiquing the assumptions and conclusions of others where appropriate;
- (c) Full development of a cogent line of reasoning;
- (d) Appropriate use of and correct citation to relevant literature and reliable authority in support of ideas;
- (e) Mastery of word usage, particularly legal terms of art and the vocabulary of the legal discipline about which the student is writing; and
- (f) Mastery of grammar, punctuation, and spelling.

If you are seeking to have your project fulfill the upper-level writing requirement for the J.D. degree, then you must check the current requirements (they have since changed) and make sure you meet those requirements as well.

Your paper must meet all other applicable requirements to be accepted for credit as well, such as any requirements set by UND School of Law policy.

Also be aware that the work you submit for credit must be original for this course. That means, for example, that you cannot submit for this course a paper that was already submitted for academic credit in another course.

With provisos, incorporating your own prior work into your independent special project paper can be appropriate. If you wish to incorporate your own pre-existing work into the independent special project I am supervising, then (1) it must not result in double-counting for academic credit purposes, (2) you and I must discuss the matter and I must approve, and (3) our mutual understanding about the matter must be memorialized in writing in advance.

Appropriate Number of Credits, Quantity of Work, and Word Counts:

Independent special projects can be taken for varying amounts of credits. I must agree to the number of credits for which you are enrolled, and we must agree in writing on the quantity of work that is appropriate for that number of credits for your project.

Under the right circumstances, a paper’s word count can be a good rough gauge of the quantity of work involved in researching and writing it. Roughly speaking, in most circumstances, I believe about 6,000 words would be needed for

¹ These requirements were formerly published at <http://law.und.edu/students/policy-manual/general-requirements.cfm>.

one credit, about 9,500 words for two credits, and about 13,000 words for three credits. These word counts include footnotes.

Now, to be honest, I worry about having given you the word counts in that last paragraph. Here's why: You should never be shooting for a word count. Instead, you should aim to take on a project of sufficient depth and difficulty that it justifies the amount of academic credit for which you have enrolled. Word count is a dubious proxy for that, but it's not clear what would be a better alternative.

Rather than word count, it's really about how much you have bitten off to chew, and whether you have done a good job with that. The truth is, if you take on a project that's intellectually and analytically big enough for three credits, then getting to 13,000 words won't be difficult. If you do it right, trying to cut down on words will be the problem you have.

Here's another way to think about it: Words must be used in a balanced way in your paper. An inappropriately inflated literature review, needlessly elongated quotations, long stretches of paraphrasing, or other filler cannot propel a paper to the required quantity-of-work requirement, even if such material causes a paper to exceed a numerical word-count threshold. Consider this: If omitting words or excising sections improves your paper, then the omissible/excisable text does not get you closer to meeting the quantity-of-work requirement.

By the same token, the above word-count numbers might be too high for a paper that is admirably concise, original, and deeply researched.

At any rate, word count as a proxy for quantity of intellectual labor works best looking backward. After you are done writing, and after we have worked to cut out unneeded text, the word count that you are left with will likely suggest, in a rough way, how much work you have done. And as such, it will help me confirm that you have earned the amount of credits for which you enrolled.

The bottom line is that trying to reach a certain word-count range should not be the driver of your writing. The key is to pick an appropriate number of credit hours based on the scope of your proposed project (and not based on your schedule needs or degree requirements). You can then write with your eye on concision, appropriate pacing, and balance.

Note that if the quantity of work requirement is not met at the end of the course, the appropriate action on my part would not be to award a lower grade, but rather to decline to award credit for the course.

Required Reading:

There's a book I want you to get: *Academic Legal Writing* by Eugene Volokh. You can get the second, third, or fourth edition, or a more recent edition if one has been published. Read the book as an instruction manual to writing your paper. It's a thorough guide on how to do it, and how to do it well. You are expected to follow its counsel in all respects.

Since this is an *independent* writing project, I will not be giving you specific reading assignments within the book for you to do by certain dates. Instead, I will expect you to design your own schedule of readings, and then provide that to me as

part of your timetable (discussed below). In designing your timetable, you will need to make sure that you read the relevant parts of the book before doing the corresponding work on your paper project.

If you want to do something differently than advised by the book, discuss it with me. If I agree, you will need my confirmation in writing.

Format:

Eugene Volokh offers a downloadable word-document template for people to use for a law-review-style paper. Google it, download it, use it, and keep to its format.

Citations should be done law-review-style according to either Bluebook or ALWD rules. Among other things, that means using footnotes and not endnotes or in-line citation.

Writing:

Aim for excellent writing. Two tools I can recommend for excellent writing, which are well-adapted to legal scholarship, are any recent edition of *The Associated Press Stylebook* by the Associated Press and any edition of *The Elements of Style* by William Strunk Jr. and E. B. White. I taught an upper-level writing course for law students in 2014, and I assigned both books for that class. I also would encourage you to look over the list of rules that we built over the course of the semester for that class.² In critiquing your writing, I may refer to that list.

Here are a few selected points to be sure to keep in mind:

- *Revise, revise, revise.* The more you revise your writing, the better it will get. So don't try to make excellent text flow from your fingertips when you first put it down. Instead, concentrate on getting text down on paper, and then revise it over and over until it's excellent.
- *Opt for simple words and short sentences.* Choose fancier words or longer sentences only when there's a good reason for doing so. Fancy, convoluted writing is valued in many disciplines in the arts and sciences. In legal writing, however, simplicity and straightforwardness is definitely the way to go. In the incredibly unlikely event you overshoot and make your writing too simple, I'll let you know. But that's the better mistake to make. It's always easier to fancy-up simple writing than to untangle complex text.
- *Be straightforward, and write with the reader's convenience in mind.* Many specifics flow from this general idea: Provide a roadmap. Don't hide the ball. Don't put the burden on the reader to make sense of dense text or complex ideas. Explain things as you go along, and don't make your reader feel stupid or force them to look to other materials to understand what you're talking about.
- *Keep paragraphs short.* Josh Zive, a friend of mine who is a very successful Washington, D.C. lawyer and who has formal training in rhetoric, gave

² Available at http://www.ericejohnson.com/courses/pwc_14/PWC_List_of_Rules.html.

some pretty great advice in this regard. He said a lot of dense writing can be made instantly better just by inserting paragraph breaks.

It's true. The effect is almost magical. White space makes readers feel like they are in safe hands. So give them plenty.

- *Persuade by making the case.* Instead of telling the reader what to think, it's usually far better to set out the facts and the argument so that the reader will see things your way. In a slogan: Show, don't tell. Or, as put by Strunk & White's book, "Use definite, specific, concrete language."

For instance, you could say:

The courtroom was too noisy and chaotic to provide due process for John Smith.

But this is better:

One waiting defendant was screaming obscenities. Three babies were crying. And a buzzing, blinking bank of fluorescent lights plunged half the courtroom into darkness every few seconds.

The court reporter never recorded a single sentence uttered by John Smith's attorney.

Progress and Deliverables:

You will not just turn in a final paper to me at the end of the semester. I need to see your progress in the form of intermediate work product throughout the semester. In particular, I need to get the following from you, in this order: research proposal, timetable, abstract, outline, research memo, rough draft, polished draft, and final manuscript. These elements are discussed in further detail below.

You should send these to me by e-mail as an attached file, and I'd like you to use particular file names:

Firstname_Lastname_00_research_proposal

Firstname_Lastname_10_timetable

Firstname_Lastname_20_abstract

Firstname_Lastname_30_outline

Firstname_Lastname_40_research_memo

Firstname_Lastname_50_rough_draft

Firstname_Lastname_60_polished_draft

Firstname_Lastname_70_final_draft

If you need to submit a second of any of these files, increase the number by one. (So, if you submit a second timetable, the second will be "11" instead of "10.")

You will also need to send me e-mails to acknowledge that you have done the reading in the Volokh book. Send these to me according to your timetable.

Timetable:

After you have enrolled, the first thing for you to do is to work up a timetable for completion of the final project, including intermediate deadlines for abstract, outline, research memo, rough draft, polished draft, and final manuscript. You must also specify deadlines by which you will have read relevant portions of the Volokh book.

Send the timetable to me as soon as you can, but at the absolute latest, you must send the timetable to me by e-mail no later than the Wednesday of the second week of classes, unless we have agreed in writing on another deadline. I will let you know if the timetable is acceptable.

See below regarding deadlines, lateness, and deadline extensions.

Abstract:

The abstract should come to me in the form of a word document made from Volokh's downloadable word-document template. You will keep building your paper from this document. Follow Volokh's advice on how to write the abstract.

Outline:

The outline should also come to me in the form of the word document made from Volokh's downloadable template. The abstract should be kept in there, and you should add the outline into the document in the area for the text of the article. Ideally, you will put in section headers that can be used to generate a table of contents for your paper-to-be.

Research Memo:

For the research memo, I'd like to see something on paper that reflects the fruits of your research. The purpose of the research memo is to push you along toward completion of the paper, as well as to let me know what's going on. Thus, the goal is not to show that you can write a "good" research memo. Rather the point is functionality.

Your research memo document should also come to me in the Volokh template form. Leave the abstract and title in, but either put outline material at the end or delete it from the version you send me.

The research memo should have two parts. (Mechanically, I'd suggest having Part 1 and Part 2 as two top level headings in your document.)

Part 1: Where I'm At: This should be a very, very brief description of what research you have done, what you have found out, and what you still have left to do. This section can just be a few sentences, and it should be addressed to me and conversational in tone.

Part 2: Research: This should be footnoted text that reflects some substantial research you've already done. Now, here's the really important part: This should all be text that you can plug-and-play into your completed paper. That is, I don't want you to write anything in Part 2 that is "extra work" done just for the research memo. It should all be material that is helping you get to your rough draft. It could be text that will go into your paper as the "background" section, or it could merely be a series of blockquotes and disconnected squibs that are footnoted. Although I am not

looking for prettiness, per se, with this research memo, since the goal is making progress toward the final paper, I expect you to be using Bluebook- or ALWD-formatted footnote citation at this point. Again, you want plug-and-play material, and since your paper will eventually need to have properly formatted citations, you should build them in as you go along.

Rough Draft:

The rough draft should be a fully-formed and complete paper, allowing for a few bracketed yet-to-be-inserted cites or similar small-scale loose ends. While “rough,” the draft should reflect at least one thorough round of rewriting and revision that you have done to increase the quality of the paper’s argument and the clarity of its presentation.

Assuming you do a good job with the rough draft, I will provide you with coarse-grained comments on the paper, concentrating on substance and big-picture issues. You will need to schedule a meeting to discuss the rough draft with me in person.

Polished Draft:

The polished draft should represent the culmination of all your independent work over the semester. It should be in substance, and appear in presentation, ready to submit for publication.

Assuming you do a good job with the polished draft, I will provide you with fine-grained comments on the polished draft, concentrating on the details. This will be the last version of the paper for which you will receive feedback from me.

You will need to schedule a meeting to discuss the polished draft with me in person.

Please understand that the “big deadline” of the course is the deadline for the polished draft. (As I note below, doing the final draft should involve a relatively modest amount of additional work.)

Final Draft:

The final draft should reflect revisions made according to my comments on the polished draft. Doing the final draft should hopefully not be very time consuming, as your polished draft should have been in submissible-for-publication condition. I will not provide you with feedback on the final draft, but I will use it as the basis for your grade or, if the course is taken on a pass/fail basis, the basis for the decision about whether to award academic credit.

Deadlines, Lateness, and Deadline Extensions:

It is your responsibility to stick to the deadlines as set out in your timetable. I will not be sending you reminders. If you are late, lateness will count negatively for your final grade. (Grading is discussed in more detail below.)

An extended deadline is better than being late. But please do not ask for deadline extensions unless there is a serious unforeseen circumstance. One semester is not a long time to get a paper done, so pushing back deadlines is a bad idea for

being able to produce a quality product at the end. Note that as discussed below, asking for deadline extensions can have an effect on your grade.

Academic Honesty:

Plagiarism, cheating, breach of academic ethics, or serious academic misconduct of any kind in this course will presumptively result in a failing grade of F for the semester. The need to avoid plagiarism and to use appropriate attribution and citation applies to all iterations of your work over the semester, including the rough draft.

This does not mean, for instance, that a rough draft must be polished; it means, instead, substantive avoidance of plagiarism. For instance in a rough draft, avoiding plagiarism in a given circumstance could just mean a footnote to “[CITE WILLIAMS’ PROCEDURE AS PROCESS BOOK].”

Volokh’s book contains guidance about issues of academic ethics and plagiarism. It is your responsibility to educate yourself in this regard and treat these issues with diligence and care.

In any instance of misconduct, I reserve the right in my discretion to award a lower grade other than an F if I find there to be extraordinary mitigating circumstances. Despite my reservation of rights in this regard, however, do not expect leniency. Please note that the awarding of a failing grade or lower grade for misconduct is not to the exclusion of other sanctions, and I intend, in virtually all instances, to refer serious academic misconduct to the Honor Board and/or the administration of the University and/or School of Law.

Graded or Ungraded (Satisfactory/Unsatisfactory) Basis:

The School of Law allows independent special projects to be undertaken either on a graded (A – F) basis or an ungraded basis (S/U). My ordinary expectation is that a student will enroll for an independent special project on a graded basis, as I expect that the requisite level of motivation for advanced, independent study generally corresponds with the motivation to work hard enough to get a good grade.

If a student wishes to undertake an independent special project on an ungraded basis, I am willing to discuss the matter, but I would expect the student to provide a justification for why an ungraded basis would be appropriate and to provide some means of assurance that the project will be of high quality despite having been done on an ungraded basis.

Grading Standards:

Final Draft Grade:

Your grade will primarily be based on your final draft. I will use the following in exercising my discretion in awarding a grade for the final draft:

- F A paper with a grade of “F” does meet one or more of the requirements set out above in the section “Minimum Standards for Receiving Credit,” including the aspects, lettered (a) through (f), that evidence a “rigorous writing experience.”

- D** A paper with a grade of “D” meets all of the minimum requirements set out above in the section “Minimum Standards for Receiving Credit,” including the aspects, lettered (a) through (f), that evidence a “rigorous writing experience.”
- C** A paper with a grade of “C” substantially exceeds the standards required for a grade of “D” in at least some important respects, shows a lawyerly quality of writing and argument, and evidences substantial engagement with sources.
- B** A grade of “B” is appropriate for a very good paper that substantially exceeds minimum standards in most or all respects, evidencing a deep engagement with a considerable variety of sources, manifesting substantial intellectual creativity and critical thought, and contributing in some fashion within its chosen subject matter. Such a paper has strong, easy-to-follow organization, is clearly written, and is generally free of grammar/spelling/punctuation problems. The manuscript shows promise of publishability.
- A** A grade of “A” is appropriate for an outstanding paper that exhibits excellence in all or nearly all respects, going substantially beyond the standard of a “B” paper. Such a paper shows a high degree of intellectual creativity and critical thought, and it indicates the author’s expert command over the chosen subject matter. These qualities are evidenced with citation to a wide array of sources and exquisite, appropriately critical engagement with those sources. The argument is easily understood. The organization is strong, and the paper progresses logically and smoothly. The writing is clear, straightforward, and highly polished, almost entirely free of grammar/spelling/punctuation problems. Moreover, the paper unambiguously makes a new contribution to thought or understanding in its area. It deserves publication, as well as attention from members of the scholarly and/or practice community.

Pluses or minuses to the above grades are appropriate for papers that, in my discretion, fall between standards.

Other Considerations in Grading:

I will not award a letter grade for deliverables other than the final draft. Your other deliverables will, however, have an effect on your semester’s final grade. Using the final draft grade as the starting point, I may – and likely will – exercise discretion to make a positive or negative adjustment to the grade, either adding or subtracting one, two, or more grading steps based on other considerations to arrive at the final grade for the course. By a “grading step,” I mean a single gradation on the grading scale, such as from a B to a B+. Positives and negatives, of course, may offset.

Reasons for a positive adjustment would include high quality in deliverables other than the final draft, adherence to deadlines, professionalism in communications, and diligence in doing and reporting back about the Volokh

reading. Reasons for a negative adjustment could include not meeting deadlines, asking for deadline extensions (especially if substantial in extent or if done multiple times), not doing or reporting back about the Volokh reading, and not showing diligence in making progress throughout the semester.

As one example, turning in a “polished” draft that is better characterized as “rough” would ordinarily require, by itself, a one- or two-step negative adjustment. As another example, turning in a rough draft that does not meet the enumerated standards should be expected to require at least a one-step negative adjustment.

As disclosed above, plagiarism or other serious academic misconduct should be expected to have grading consequences – the awarding of an F, for instance – as well as other consequences.

Communications, Meetings, and Feedback:

I encourage you to meet with me as often as is helpful during the semester, either by coming to office hours or by making appointments. I often find as well that it is helpful to speak with independent-project students by phone.

As set out above, I will give you feedback on the rough draft and polished draft. If you would like feedback on other deliverables, please meet with me. Otherwise, I may or may not provide such extra feedback. I’m a legal-scholarship geek – I love talking to people about their scholarly research. So don’t hesitate to call on me. But since you are doing independent work, don’t expect me to initiate discussions. The ball’s in your court.

For handling most questions, my strong preference is to communicate in person, or over the phone if needed. E-mail is appropriate for submitting deliverables and for memorializing certain things in writing. But if you want my reaction to some new thought, or if you have a substantive question, I find it is usually far more efficient to talk.

My e-mail address is eric.e.johnson@law.und.edu, and if you are enrolled, I can give you my cell phone number. Any e-mail communications you have with me should be prepared in a professional manner, including the use of a meaningful subject line.

Ultimately, what I want out of supervising your independent special project, is for you to be very satisfied with your own work. If you come away with a sense of accomplishment, a new level of expertise in a field that interests you, and a paper you can proudly show off to others, the semester will be a great success for both of us.

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Instructors wishing to use this or other course content without charge should feel free to ask. If using it helps others not reinvent the wheel, I’m very happy for that.

Note that this syllabus, as a functional document, may incorporate some material from other sources and authors, in some cases verbatim or nearly verbatim, without specific notation.

I am grateful to the many students whose projects I have supervised over the years. Among other things, they taught me pretty much everything I know about supervising independent research, and the wisdom we accumulated together is reflected in this document.