

RUBRIC

Teaching the Teachers Conference

Meeting Learning Outcomes: Assessments and Rubrics for Legal Research Competency

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Penn State Law

Legal Research Tools and Strategies Section 202

Final Research Project Assignment

Due: Monday, November 27, 2017 by 11:59 PM

MEMORANDUM

TO: SUMMER ASSOCIATE
FROM: SUPERVISING PARTNER
DATE: NOVEMBER 6, 2017
RE: RESEARCH FOR NEW CLIENT

We recently took on representation of a new client, Everett Banks. Mr. Banks, who has lived in Las Vegas, Nevada his entire life, is a widower with three children, Alexis, age 9, Kevin, age 6 and Derek, age 4. Mr. Banks's wife died while giving birth to Derek so he has been a single parent for the past 4 years. He does not have any living relatives and cannot afford to hire additional help with childcare or housekeeping and so he handles all parental duties on his own. Mr. Banks started and ran a successful job recruitment firm in Las Vegas, however, business has steadily decreased as most job hunters and employers use online job websites rather than recruiters. As a result, Mr. Banks has been desperately trying to find way to provide for his children.

After attempting to sell drugs to an undercover cop, Mr. Banks was recently convicted of the sale and distribution of drugs, a category B felony, and sentenced to 13 months in Nevada state prison. This is his second criminal conviction. Right before the birth of his second child, Mr. Banks was convicted of misdemeanor assault and served six months in Nevada state prison.

During his prior incarceration, Mr. Banks exchanged letters, drawings and pictures with his oldest daughter, Alexis, and developed a relationship with his infant son, Kevin. His youngest son, Derek, had not been born yet. During his current incarceration, Mr. Banks continues to call and speak with his children on a bi-weekly basis and often sends letters and drawings, and, while he can't provide significant financial support for his children, he does include small monetary payments for his children's allowances which he earns from his prison work payments. He also sends special cards and presents for birthdays and holidays.

Because Mr. Banks has no living relatives, his children have been placed in a foster home by the Nevada Division of Child and Family Services. They are currently living with Mr. and Mrs. Robert Briggs, who have been foster parents in the Nevada foster care system for many years. Mr. Banks has requested that the Briggs bring his children to visit him on a bi-monthly basis in accordance with the prison rules, but they have only brought the children twice since he sentence began several months ago. The Briggs, who are not attempting to adopt the children, are claiming that Alexis, Kevin and Derek are too afraid to visit their father in prison. The Division of Child and Family Services hired a child psychologist, Dr. Sara

Martin, who evaluated the Banks children. Her report stated that the two younger children are apprehensive about visiting Mr. Banks in prison, but that Alexis, has expressed that she still wishes to continue visiting her father. Last month, the Clark County District Court Family Division entered an order terminating Mr. Banks’s parental rights to his three children stating that there was clear and convincing evidence that his incarceration showed his unfitness as a parent and abandonment of his children. Mr. Banks has come to us asking us to appeal the ruling on the basis that his parental rights were incorrectly terminated because he has not abandoned his children and it is in the best interest of his children that he retain his parental rights.

Part 1. Research Plan

Section	Expectation	Points Received	Total Points Available
What?	Student explained all relevant facts of the case.		3
Who?	Student named all relevant parties involved in the case.		3
When?	Student indicated when the events took place and whether the relevant law is current or historical.		1
Where?	Student stated the correct location where the events occurred.		1
Why?	Student provided the correct reason as to why this case is being litigated and what the parties are seeking.		1
Legal Issue?	Student accurately state all relevant legal issue(s) in the case.		4
Area of Law	Student stated the correct area of law.		1
Primary Binding Authority	Student correctly identified the relevant primary binding authority for the jurisdiction in their case.		3
Key Terms & Phrases	Students provided all relevant key terms and phrases from the facts of the case, including broader and narrower terms.		3
Possible Search Strings	Students provided at least one natural language and one terms and connectors search string. All search strings use relevant key terms and correctly use terms and connectors.		4
Additional Info Needed	Student provided any additional information they need to accurately answer this question.		1
Outline of Preliminary Research Steps	Student laid out the relevant research steps in a logical order		
TOTAL			30

Part 2. Short Answer

Question	Expectation	Points Received	Total Points Available
ALR Section	Student: (1) located an ALR; (2) provided the correct citation; (3) provided the title of the section.		3
National Legal Encyclopedia	Student: (1) located a National Legal Encyclopedia section related to the client’s legal issue; (2) provided the correct citation; (3) provided the title of the section; (4) provided the title of the secondary source.		4
Medical/scientific journal	Student: (1) located medical/scientific source that was NOT a legal source; (2) provided the correct citation; (3) provided the title of the section.		3
TOTAL			9

Part 3. Informal Memo

Sources/Analysis	Expectation	Points Received	Total Points Available
Statutes	Student located the 5 relevant statutes for analyzing the legal issues.		5
Cases	Student located the main case on point and at least 4 other relevant cases to support their legal analysis.		5
Citations	Students provided correct citations for the authority cited in their memo.		5
Legal Issue 1	Student identified and analyzed the issue of abandonment/unfitness/incarceration.		5
Legal Issue 2	Student identified and analyzed the issue of best interests of the child.		5
Grammar	Student used proper grammar and punctuation throughout their entire memo, including correct spelling, consistent font size and color, logical paragraph breaks, etc.		5
Overall Analysis	The student had an opening and closing paragraph. He or she logically laid out each legal issue and explained how the authority that he or she located was relevant to the client’s legal issues and how the court might interpret that authority in favor or against the client.		7
TOTAL			35

Part 4. Research Log

Section	Expectation	Points Received	Total Points Available
Source	Student provided sources for all results.		1
Location/ Database	Student provided the location/database where the result was found.		1
Search Strings	Student provided the search string used to find the results.		2
Findings/Value	Students explained the findings and/or the value of the resource located.		4
Next Steps/ Citations Found	Student listed their next steps and citations found from the result.		4
Currentness/ Good Law	Student provide both how current the result is and, if applicable, if it is still good law.		3
TOTAL			15

Part 5. Timesheet

Section	Expectation	Points Received	Total Points Available
Dates	Student provided dates for all work/research sessions.		1
Time spent on each date	Student provided the time spent during each research session.		1
Description of Activity	Student provided a description of the activity during each research session.		2
Breakdown of searches and costs	Student broke down the searches and costs for each search.		2
Shepards/ KeyCite/ BCite	Student shepardized/KeyCited/BCited all primary authority.		2
Total time spent, searches run and cost	Student provided totals for all time and costs spent.		2
TOTAL			10

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Legal Research Tools & Strategies Section 202
Administrative Law Group Project & Presentation
Written Submissions Due by 10/31/2018 at 11:59 PM
Group Presentations held during class on 11/2 and 11/7

This assignment will require you to create a timeline and summary for a promulgated regulation and present your findings in class. There are two parts to this assignment:

Part 1. Canvas Group Written Assignment

- Each group will create a written Canvas page/document that contains the following:
 - A timeline of your regulation that includes:
 - The date that the proposed rule was published,
 - The length of time and due date for comments for the notice and comment period,
 - The date that the final rule was published, and
 - The date that the final rule becomes effective.
 - Additional information about your regulation
 - Citation(s) to the authorizing or enabling statute(s),
 - A summary of the changes made in the Code of Federal Regulations,
 - A short summary of background for creating the regulation (about 2 paragraphs), and
 - A summary of one comment received by the agency and the agency's response to the comment (about 2 paragraphs).
- Feel free to be creative – set up and use the Canvas Group page however you would like, but the final product cannot change or be updated past 10/31/18 at 11:59 PM.
- The Canvas Group page must also include documentation of all group communication and division of work
 - This means that within your Canvas Group, all group communication and division of work should be documented in a group discussion or elsewhere on the page either by submitting a summary of an in-person group meeting or by communicating with your group members directly through the discussion feature within the Canvas Group page.
 - I will begin the discussion by posting the Final Rule assigned to your group on your Canvas Group discussion board.

Part 2: In-Class Presentation

- Each group will do a short presentation providing a summary of your promulgated regulation and going over its timeline. Presentations should be between 7-10 minutes. You may use your Canvas group page as a visual aid for your presentation or any other resources that you would like to aid in your presentation.

Grades will be based on both the group submission and presentation as a whole, as well as the individual communications and contributions from the discussion. Please note: If I do not see evidence of individual participation, this will be reflected in your individual part of the grade.

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Points	Criteria
5	The written portion of the assignment contains the correct date that the proposed rule was published, the length of time and due date for comments for the notice and comment period, the date that the final rule was published, and the date that the final rule becomes effective. It also contained citation(s) to the authorizing or enabling statute(s), a summary of the changes made in the Code of Federal Regulations, a short summary of background for creating the regulation, and a summary of one comment received by the agency and the agency’s response to the comment. All group communication was documented, and it was easy to see which student completed which part of the project. All information was accurately presented during the oral presentation. Visual aids complemented the presentation and the speaker(s) presented the information in a clear and concise matter.
4	The written portion of the assignment contains most of the correct information, group communication was mostly well-documented, and it is relatively easy to see which student completed which part of the project. Most information is presented accurately during the oral presentation. Visual aids complemented the presentation and the speaker(s) presented the information in a mostly clear and concise matter.
3	The written portion of the assignment contains some of the correct information, group communication was somewhat well-documented, and it is mostly clear which student completed which part of the project. Some information is presented accurately during the oral presentation. Visual aids neither helped nor hurt the presentation and the information was somewhat clear and concise.
2	The written portion of the assignment contains some significant errors. It was hard to determine who completed what part of the project and group communication was either minimal or unclear. The oral presentation was confusing, and the speaker(s) did not do a good job of conveying communication.
1	The written portion and oral presentation were lacking a significant amount of information and/or there were a few major errors. There was little group communication documented. It was clear that little effort was put into the project.
0	The written portion and oral presentation were full of errors and/or incomplete. There was no group communication documented.

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Part 1. Research Plan

Elements/Criteria	Exceeds Expectations	Meets Expectations	Approaches Expectations	Minimally meets/Does Not Meet Expectations	Points Awarded
Legal Research Plan	All required elements are included in the research plan. Legal issues are well defined and preliminary research steps are laid out in a way that makes sense with no missing steps. Plan is well-drafted and student went above and beyond in including relevant content. (23-30 points)	Most or all required elements are included in the research plan. Legal issues are well defined and preliminary research steps are laid out in a way that makes sense with no missing steps. (14-22 points)	Some required elements are included in the research plan. Legal issues may not be completely on point and some preliminary research steps may be missing. (6-13 points)	Many elements are missing from the research plan and steps are not clearly defined. (0-5 points)	
Short Answer	All short answer questions have full and complete answers with correct citations in the proper format, titles and all sources are directly on point for the client's legal issues. (8-10 points)	All short answer questions have full and complete answers with correct citations in the proper format. Sources chosen are mostly on point for the client's legal issues. (4-7 points)	Short answers may be missing correct citations or titles and may not be the best choices for the client's legal issues, but are still somewhat related. (1-3 points)	Short answers are incomplete and are not on point for the client's legal issues. (0 points)	

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<p>Informal Memo</p>	<p>The informal memo contains all relevant citations and addresses all relevant legal issues. The writing is clear, concise and organized in a logical manner. The analysis of the primary authority is applied to the client's issues throughout the memo. All citations, grammar and punctuation are correct.</p> <p>(28-35 points)</p>	<p>The informal memo contains all relevant citations and addresses the relevant legal issues. The writing is mostly organized in a logical manner, but the analysis may not be thoroughly applied to all legal issues. Citations, grammar and punctuation are mostly correct.</p> <p>(20-27 points)</p>	<p>The informal memo is missing some relevant citations and/or a discussion of one of the legal issues. There may be some organizational problems with the writing and the analysis is not as thorough as it should be.</p> <p>(11-19 points)</p>	<p>The informal memo is missing most of the relevant citations and/or legal issues. There is a lack of organization and the analysis isn't logically applied to the client's legal issues.</p> <p>(0-10 points)</p>	
<p>Research Log</p>	<p>The research log is thorough, complete and well organized. The findings/value column includes detailed information about the usefulness of the resource, all next steps are logical, and the student has evaluated the currentness/good law of each resource. The log includes a shortlist of resources reviewed and not just those that were included in their analysis.</p> <p>(12 – 15 points)</p>	<p>The research log is complete and well organized. The findings/value column includes information about the usefulness of the resource, and next steps the student has evaluated the currentness/good law of each resource. The log includes more resource than used in the analysis, but is not a complete list.</p> <p>(8 – 11 points)</p>	<p>The research log is missing some relevant information. The findings/value is not very thorough, and the currentness/value is not complete for all resources. The student only included the sources they cited to in their analysis.</p> <p>(4 – 7 points)</p>	<p>The research log is mostly incomplete and/or not completed at all.</p> <p>(0-3 points)</p>	

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Time Sheet	Student provided all relevant dates, time spent, and a full description of activities done during each research session. The student broke down the searches and costs for each session, shepardized/ KeyCited/ BCited each primary authority and provided totals for time and costs. The timesheet is very thorough and complete. (8-10 points)	Student provided most or all relevant dates, time spent, and a description (albeit brief) of activities done during each research session. The student broke down the searches and costs for each session, shepardized/ KeyCited/ BCited each primary authority and provided totals for time and costs. While the timesheet is complete, it is not a thorough as it could be. (4-7 points)	Student missed some relevant dates or did not fully document their time spent and a description of their activities. They may be missing shepards/ KeyCite/ BCite for primary authority and/or did not break down their costs. (1-3 points)	The timesheet is incomplete and is missing a breakdown of costs and descriptions, etc. (0 points)	
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SAMPLE RUBRIC

Elements/ Criteria	Exceeds Expectations	Meets Expectations	Approaches Expectations	Minimally meets/ Does Not Meet Expectations	Points Awarded

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Elements/ Criteria	Exceeds Expectations	Meets Expectations	Approaches Expectations	Minimally meets/ Does Not Meet Expectations	Points Awarded

SAMPLE ASSESSMENT

MEMORANDUM

TO: SUMMER ASSOCIATE
FROM: SUPERVISING PARTNER
DATE: NOVEMBER 3, 2016
RE: RESEARCH FOR NEW CLIENT

Our new clients are Amy and Matt Stark, residents of State College, Pennsylvania. The Starks began trying to conceive a baby in 2010. After two years of disappointment, they sought medical advice from one of the top reproductive endocrinologists in Pennsylvania. After testing, Matt was diagnosed with azoospermia, which meant that he could not father any biological children. They decided to use a sperm donor to inseminate Amy.

The Starks consulted with their reproductive endocrinologist, and he suggested that they use "Loving Homes," a nationally known and well-regarded sperm bank headquartered in Pittsburgh, Pennsylvania. After much research, the Starks chose Donor 3409. Donor 3409 was described as tall and blonde (features that are similar to Matt Stark) and a medical student with excellent grades. Loving Homes stated in their informational material that all potential donors undergo a "rigorous screening process" that includes background screening, a physical evaluation, and a mental evaluation by a trained counselor. The medical director reviews the information and decides if the candidate will be accepted as a donor. If that person is accepted, he needs to complete a physical examination every six months.

Amy became pregnant with Donor 3409's sperm and gave birth to a son, Jonathan, in 2013. Jonathan showed developmental delays, in particular failure to thrive, and was diagnosed early in life with Cystic Fibrosis, a genetic disorder inherited through mutations from both parents' genes. Amy had tested as a carrier for cystic fibrosis during her fertility treatments; however, due to Loving Home's assurances that all sperm donors were screened for health and genetics, the Starks did not worry that their child would possibly have such a disorder.

We'd like to sue Loving Homes in the Court of Common Pleas for breach of contract and negligence. We are seeking monetary damages for the cost of the fertility treatments, the cost of the pregnancy, the cost of care for Jonathan, and punitive damages.