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Creating Effective Legal Research Exercises

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CREATING EFFECTIVE LEGAL RESEARCH EXERCISES

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Introduction

Without doubt, legal research skills are among the most important skills students need to acquire in law school. Teaching legal research effectively is challenging, and those who teach these skills often have differing views as to the best way to meet this challenge. One thing, however, is certain: regardless of the precise curriculum used to teach legal research, students cannot acquire the necessary skills if their legal research assignments are not well crafted.

At George Washington University Law School, the Legal Research and Writing Program has developed guidelines for constructing research assignments that allow the first-year students to gain competence and confidence in their research skills. Although the guidelines were developed specifically to assist third-year students (Dean's Fellows) who teach the research component of the curriculum at George Washington, they are generally applicable to a wide variety of research assignments and should be useful in any program of research instruction.

The guidelines are based on the simple proposition that creating effective research assignments involves three steps: defining your goals; writing the assignment; and checking your work. You need to go through all three of these steps for each assignment you create. This article will examine each of these steps in some detail.

The George Washington Program

Before presenting the guidelines, however, a brief description of the Legal Research and Writing Program at George Washington may provide some useful context for the suggestions that follow.

The curriculum focuses heavily on research using print resources. Only after students have completed training with print resources do they begin working with computer research services. As a result, these guidelines are used primarily to create print resource exercises. First-year students begin by learning about the structure of the legal system and completing an exercise that simply asks them to look at state and federal cases and statutes. From there, students learn each week about a new research tool (digests, Shepard's®)) Citations, annotated codes, secondary sources, etc.). For each research tool, they complete a library assignment. The assignment introduces the students to the new research tool and also, if possible, provides some review of the earlier assignments. Thus, for example, in an assignment on annotated codes, students might be asked to locate and Shepardize® a case from the annotations to provide a review of earlier assignments. In these assignments, students typically work from a hypothetical fact pattern, answering questions about the research materials they locate.

Once the students have completed the exercises on the individual research tools, they complete an "integrated" assignment. This assignment typically consists only of a fact pattern similar to the type often used in memorandum assignments. Instead of asking specific questions about the research materials, this assignment requires the students to develop and execute a research plan to locate the answer to a legal question.

Step 1: Defining Your Goals

When writing papers, many students are tempted to skip the planning and outlining stages and begin writing immediately. We routinely discourage students from taking this approach because proper planning ultimately saves time and leads to a better work product. The same is true of creating research assignments.

One of the best ways to plan a research assignment is by thinking through the goal(s) of the assignment. The end result you hope to achieve should be the defining factor that guides all other decisions about how to present the material to your students, what types of questions to ask in the assignment, and how to ask those questions.

Of course, the ultimate goal is to familiarize the students with the specific research tool(s) covered by the assignment. Frequently, however, this goal is too general to be helpful in constructing an assignment. More specific goals will provide direction as you prepare your materials. The following are some important objectives to consider:

Are you trying to introduce the students to a research tool or test their ability to use it?

Most of your assignments should be designed to illustrate to the students how to use the particular research tool. Assignments should not be designed to test students' knowledge until they have had an opportunity to work with a research source and become familiar with it. When students are just learning how to use a source, the questions should be designed to illustrate the steps in the research process as discussed in class or the assigned reading. This will help the students gain mastery of the material and confidence in their research ability.

What do you want your students to know about the source at the end of the assignment?

Making a list of the aspects of the research source that you want your students to understand upon finishing the assignment is a useful technique. For example, if you were planning an exercise on digest research, you might come up with the following list of items that you want the students to understand at the conclusion of the assignment:
• Using the Descriptive Word Index

• Locating relevant case summaries under various topics and key numbers

• Using the pocket part to update research

• Using the cumulative or noncumulative supplements to update research

• Locating case citations in the Table of Cases and the Defendant/Plaintiff Tables

Knowing exactly what you want to cover in the assignment will help you write questions that address all of these items. It will also help you outline your classroom presentation on the research tool.

What materials do you want your students to use in the assignment?

The answer to this question is not as obvious as it seems. If you are creating a Shepard's assignment, for example, of course you want your students to use Shepard's Citations. It may be useful, however, to think more specifically about the research materials available in the library and the likely demand on those materials at the time your students will be working on the assignment. For instance, in preparing a Shepard's assignment, you may automatically think of having your students Shepardize federal cases. This is certainly an appropriate task, but students in many other sections of the course will also be using Shepard's Federal Citations. Consider whether it is possible to achieve your goals using other tools, such as regional or state units of Shepard's. Even if you decide that it is important for your students to do some of their research in the most popular resources, you may be able to draft some of the questions using sources in less demand. This helps spread students out in the library, minimizes the number of lost or improperly shelved books, and expands the range of research tools with which your students become familiar. [1]

In addition, you should try to include information from previous research assignments, either as a review or as a way of introducing students to a new source. For example, statutory annotations can be used to introduce students to case research, secondary sources, legislative history, or administrative materials. Including material covered earlier in the semester gives your students more practice using those sources and helps illustrate how various research tools can be used together.

What do you want your students to do with the information they find?

Many research exercises, at least early in the semester, can end up being scavenger hunts. Students follow the research steps to reach a specific source and answer a few questions about what they find. This is one way to approach assignments designed to introduce students to a particular source, but it is not the only option. You can ask your students to do more than simply record the information they find.

For example, you can combine research and citation drills by asking your students to submit their answers in proper Bluebook form. You should also structure the assignment so that the students have to read and think about some of the material they find. To accomplish this goal, you should add a written component to the research exercise, such as a case brief on one of the cases located, a brief explanation of a statute, or a paragraph or two applying the law to the facts of the hypothetical. Short written assignments can be effective in helping students integrate their research and writing skills.

How much time do you expect your students to spend on the assignment?

Questions that seem obvious to someone who is familiar with a research tool can be difficult for a student using the source for the first time. In addition, questions that seem easy when you are working backward from the answer can be difficult for students who are working through the assignment without any certainty that they are on the right track. It is difficult to generalize about how much time an assignment will take because some students naturally work faster than others, and some will catch on more quickly than others. Without doubt, however, your students will need more time to complete an assignment than you would need to work through the problems because you are already familiar with the research tools, and you should keep this in mind when drafting your assignments.

Step 2: Writing the Assignment

Writing a good research exercise is more difficult than most people realize. To write an exercise that effectively achieves your goals, you should plan to go through the following steps: (1) identify an interesting factual situation as the basis of the

assignment; (2) draft clear instructions for the assignment; (3) write questions that cover the material you identified as important in the goals of the assignment; and (4) frame the questions in a way that achieves your goals. [2]

1. Choose an interesting research scenario

Learning any new skill is often an inherently frustrating process because it requires a period of trial and error before mastering the skill. That does not mean, however, that research exercises have to be complete drudgery. Exercises based on creative fact patterns can hold your students' interest and motivate them to do their best work on each assignment. Here are some potential sources of interesting research situations:
• News and current events. Newspapers, magazines, television, and the Internet can all be good sources of material.

• Situations involving sports and entertainment personalities.

• Legal issues raised in books, movies, or television shows. [3]

• Common legal problems students may actually have faced (e.g., disputes over leases, car repairs, etc.).

Sometimes an interesting situation does not come immediately to mind. Another way to find such topics is to begin with an interesting source and use it as the centerpiece of the assignment. Once you have an interesting source in mind, you can work backward to create a fact pattern that will lead the students through the sources you want them to use. Many interesting sources can provide the starting point for a research assignment. U.S. Law Week and abstracts of recent journal articles can lead you to interesting sources. You can also use computer-assisted legal research to identify sources by searching different databases for interesting terms. In particular, the WESTLAW® Law Student Bulletin (LSB) database has summaries of recent and sometimes unusual legal issues. [4]

2. Draft clear instructions for the assignment

Each assignment should contain a list of instructions, and those instructions should be clear and easy to follow. Instructions should include the due date, the weight the assignment will be given in the final grade, the research sources students should or should not use, any restrictions on collaboration, whom students should consult if they have questions, the format in which answers are to be submitted, and the approximate amount of time the assignment is expected to take. The total amount of time for the assignment can be expressed by a time range ("You should be able to complete this assignment in two to three hours.") or as an upper limit ("This assignment should not take more than three hours to complete."). In addition to listing the total amount of time, another useful strategy is to suggest time limits for individual segments of the assignment, advising students to seek help if they spend more than a defined amount of time on some portion of the assignment. This prevents students from wasting significant amounts of time if they get off on the wrong track on part of the assignment. Finally, the goals of the assignment should also be included in the instructions so the students will understand what they are supposed to learn from the exercise.

3. Write questions that cover the appropriate material

When you defined the goals of the assignment, you identified the specific aspects of the research source that you wanted the students to understand and the materials you wanted to use to illustrate these principles. As you draft the assignment, check your work against these lists to make sure you have included everything you wanted to include.

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In drafting research questions on print resources, working directly from the books in the library is the best approach. Material looks different on the computer than it does in the books. Search terms that are useful in a computer search may not appear in a print index, and material that jumps to the forefront of a computer search may be buried in pages of annotations or digest summaries that are difficult for students to wade through. In addition, working from the books will alert you to any changes you need to make to the fact pattern for the assignment to fit with the principles you want to illustrate, such as making sure some of the necessary information is in the pocket part. Further, working from the books will make you immediately aware of hidden idiosyncrasies in a particular set of books, missing books, or other concerns that will affect your students' willingness and ability to complete the research assignment.

4. Frame the questions appropriately

The types of questions you ask and the way you phrase them will be a function of whether you are trying to introduce your students to a source or test their knowledge. If you are trying to test knowledge, general questions that assume familiarity with the research process are appropriate. In exercises covering sources students have not used before, however, you should consider including hints for using the source, guidance in generating search terms, or textual information on the source interwoven with the questions. [5]

For example, in an assignment introducing students to digest research, the research fact pattern should probably tell the students which digest set to use. The questions following the fact pattern should guide the students through the research process. Questions could ask the students to list the search terms they used, the relevant topics and key numbers, the relevant case summaries from the main digest volume, and the additional information, if any, that appeared in the pocket part or supplement. In an assignment reviewing digest research, the fact pattern might not indicate which digest set to use or might simply contain a reminder to check the pocket part. In an assignment designed to test the students' knowledge, the fact pattern might not contain any guidance at all; the students would simply be directed to locate the answer to the issue posed by the hypothetical.

One important reason for asking students a series of questions in introductory assignments is to make sure they are completing all of the steps in the research process. If you do not ask your students what they found in the pocket part, you will not be certain they actually completed that step. Therefore, using the questions to guide the students through the research process is an important aspect of the instructional process. Even in assignments designed to test the students' knowledge, it is a good idea to ask the students to list the steps they went through in locating the answer to ensure that they remembered to go through all of the appropriate steps.

One technique that can be useful in introducing a source is simply to ask students to look up citations within the source and detail what they find, instead of asking them to find the answer to a research question. For example, in statutory research, you can give the students a citation and ask them to locate it in the United States Code, the United States Code Annotated® and the United States Code Service. You can then ask the students to answer questions about what they find in each source and to compare the types of information available in each source. Asking the students to explain the different features of these sources will help them retain the information more effectively than having them listen to a classroom lecture about these sources. These types of questions can then be followed by research problems requiring the students to practice the research process.

Step 3: Checking Your Work

Checking your work is probably the least interesting step in creating a research exercise, but it is one of the most important. In fact, it is impossible to overstate the importance of this step. Once you have drafted your questions, you must check your work to make sure the assignment will make sense to your students.

The first step in checking your work is proofreading. Every year, students complain about spending hours looking for a nonexistent source in the library, only to discover that the wild goose chase resulted from a typographical error in the assignment. You will generate hostility among your students and undermine your credibility with the class if you distribute assignments containing errors. These are easily avoided with careful proofreading.

The second step is to work through the assignment in the library without using the answer key. If you created the assignment using computerized research, you must work through the assignment using the books the students are expected to use. As noted earlier, information appears differently in the books and on the computer. In addition, you need to make sure the books are on the shelves and ready for use. Even if you created the assignment from the books, checking your work in the library is still necessary because questions that seem obvious when the answer is in front of you may not seem so clear when you have to start from scratch. Regardless of how you create the assignment, working through the assignment will also act as a check on the amount of time necessary to complete the assignment. If you take longer than you expected to work through the problems, you will need to assess whether your assignment is too long. [6]

Working with a partner is often helpful at this stage. One person can write the assignment; the other can proofread and work through the assignment in the library. This is an excellent way to make sure ambiguities and errors are eliminated and that the assignment is of the appropriate length.

Conclusion

Learning legal research is like learning any other skill: instruction is most effective when it begins with simple concepts before proceeding to more complex material. Students will feel more confident in their abilities and will become more effective researchers if their lessons give them a chance to practice the research steps with guidance before requiring them to proceed unguided through the maze of resources in a law library. By following these guidelines, research instructors can create assignments that achieve their goal of helping students become competent and confident researchers.

Footnotes

[a1]   Amy E. Sloan is Associate Professor of Legal Research and Writing and Director of the Legal Research and Writing Program at George Washington University Law School in Washington, D.C.

[1]   George Washington has about 450 students in the first-year class divided into 40 sections of Legal Research and Writing. All of the sections cover the research sources in the same order. Consequently, the demand on individual research sources is an especially important concern in the Legal Research and Writing Program.

[2]   As with any other type of writing, different people will use different processes in drafting research exercises. I have presented these steps in the order in which I would follow them; I have difficulty writing research questions before setting out the instructions. Following the steps in this order, however, is not a requirement. For example, some people prefer to write the body of the exercise first, adding the instructions at the end.

[3]   For example, in one Seinfeld episode, Elaine discovers that a mannequin in a clothing store looks like her. In a similar New York case, a model sued for imitation of her likeness by a mannequin manufacturer. See Young v. Grenerker Studios, 26 N.Y.S.2d 357 (N.Y. Sup. Ct. 1941).

[4]   West Group has also published a brochure entitled Classic Cases (1994) containing summaries of cases with interesting features such as literary references or unusual facts.

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5   Interspersing instructional information with research questions is the approach used in one legal research text. See Ruth Ann McKinney, Legal Research: A Practical Guide and Self-Instructional Workbook (1996).

6   The assignment may also be too short, although this is a problem I have rarely encountered. If anything, most people underestimate the amount of time their assignments will take.

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